

235
21

2001

ILLINOIS

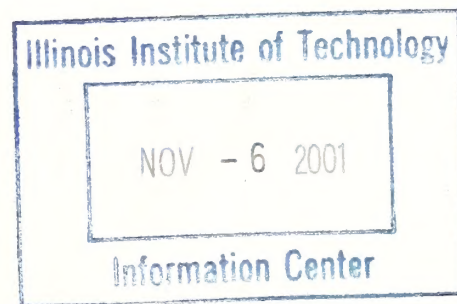
REGISTER

RULES
OF GOVERNMENTAL
AGENCIES



Volume 25, Issue 44
November 02, 2001

Pages 13,823 – 14,227



Index Department
Administrative Code Div.
111 East Monroe Street
Springfield, IL 62756
(217) 782-7017
<http://www.cyberdriveillinois.com>



Printed on recycled paper

PUBLISHED BY JESSE WHITE • SECRETARY OF STATE

TABLE OF CONTENTS

November 2, 2001 Volume 25, Issue 44

PROPOSED RULES

AGRICULTURE, DEPARTMENT OF	
Fairs Operating Under The Agricultural Fair Act	
8 Ill. Adm. Code 260	13823
BANKS AND REAL ESTATE, OFFICE OF	
Corporate Fiduciary Receivership Account	
38 Ill. Adm. Code 397	13830
COMMERCE AND COMMUNITY AFFAIRS, DEPARTMENT OF	
Eliminate The Digital Divide Program	
14 Ill. Adm. Code 546	13835
Special Youth Initiatives Program	
47 Ill. Adm. Code 2, Repealed	13843
HUMAN SERVICES, DEPARTMENT OF	
Provider Requirements, Type Services, And Rates Of Payment	
89 Ill. Adm. Code 686	13850
Triplicate Prescription Control Program	
77 Ill. Adm. Code 2080	13863
INSURANCE, DEPARTMENT OF	
Accident And Health Reserves	
50 Ill. Adm. Code 2004	13881
NATURAL RESOURCES, DEPARTMENT OF	
Administrative And Judicial Review	
62 Ill. Adm. Code 1847	13887
Bonding And Insurance Requirements For Surface Coal Mining And Reclamation Operations	
62 Ill. Adm. Code 1800	13895
General	
62 Ill. Adm. Code 1700	13902
General Content Requirements For Permit Applications	
62 Ill. Adm. Code 1777	13908
Individual Civil Penalties	
62 Ill. Adm. Code 1846	13912
Permanent Program Performance Standards - Surface Mining Activities	
62 Ill. Adm. Code 1816	13916
Permanent Program Performance Standards--Underground Mining Operations	
62 Ill. Adm. Code 1817	13936
Permit Application--Minimum Requirements For Legal, Financial, Compliance, And Related Information	
62 Ill. Adm. Code 1778	13951
Requirements For Permits And Permit Processing	
62 Ill. Adm. Code 1773	13955

Requirements For Permits For Special Categories Of Mining	
62 Ill. Adm. Code 1785	13967
Special Permanent Program Performance Standards--Operations On High Capability Lands	
62 Ill. Adm. Code 1825	13972
State Enforcement	
62 Ill. Adm. Code 1843	13978
Surface Mining Permit Application--Minimum Requirements For Reclamation And Operation Plan	
62 Ill. Adm. Code 1780	13983
Underground Mining Permit Applications--Minimum Requirements For Reclamation And Operation Plan	
62 Ill. Adm. Code 1784	13991

NUCLEAR SAFETY, DEPARTMENT OF	
Registration And Reporting Requirements For Radiation Machine Service Providers	
32 Ill. Adm. Code 322	13999

PROFESSIONAL REGULATION, DEPARTMENT OF	
Medical Practice Act Of 1987	
68 Ill. Adm. Code 1285	14005
Nursing And Advanced Practice Nursing Act - Advanced Practice Nurse	
68 Ill. Adm. Code 1305	14012

PUBLIC AID, DEPARTMENT OF	
Hospital Reimbursement Changes	
89 Ill. Adm. Code 152	14018
Medical Payment	
89 Ill. Adm. Code 140	14024

PUBLIC HEALTH, DEPARTMENT OF	
Illinois Home Health Agency Code	
77 Ill. Adm. Code 245	14043

REVENUE, DEPARTMENT OF	
Board Of Appeals	
86 Ill. Adm. Code 210	14054
Retailers' Occupation Tax	
86 Ill. Adm. Code 130	14070

STATE POLICE, DEPARTMENT OF	
Burial Benefit For State Police Officers Killed In The Line Of Duty	
20 Ill. Adm. Code 1216	14119

ADOPTED RULES

EDUCATION, STATE BOARD OF	
Calculation Of Excess Cost Under Section 18-3 Of The School Code	
23 Ill. Adm. Code 140	14122
NATURAL RESOURCES, DEPARTMENT OF	

Department Revocation Procedures	
17 Ill. Adm. Code 2530	14126
Duck, Goose And Coot Hunting	
17 Ill. Adm. Code 590	14131
The Taking Of Wild Turkeys - Spring Season	
17 Ill. Adm. Code 710	14176

EMERGENCY RULES

REVENUE, DEPARTMENT OF	
Charitable Games Act	
86 Ill. Adm. Code 435	14193

SECRETARY OF STATE

Certificates Of Title, Registration Of Vehicles	
92 Ill. Adm. Code 1010	14201

NOTICE OF PUBLIC INFORMATION

BANKS AND REAL ESTATE, OFFICE OF	
Notice Of Fine Imposed Under The Residential Mortgage License Act Of 1987	14209
Notice Of Revocation Under The Residential Mortgage License Act Of 1987	14210

REVENUE, DEPARTMENT OF	
Illinois Department Of Revenue Sunshine Act	14211

NOTICE OF CORRECTIONS TO NOTICE ONLY

EDUCATION, STATE BOARD OF	
Certification	
23 Ill. Adm. Code 25	14217

JOINT COMMITTEE ON ADMINISTRATIVE RULES

Second Notices Received	14218
-------------------------------	-------

EXECUTIVE ORDERS AND PROCLAMATIONS

PROCLAMATIONS

01-549 Chief Deputy Roger Oliver Day	14220
01-550 Northern Illinois Library System Day	14220
01-551 Provident Hospital Day	14220
01-552 Republic Of Turkey Day	14221
01-553 Slovenian Day	14221
01-554 United Hellenic American Congress Day	14222

01-555 Career Development Month - February 2002 And Groundhog/Job Shadow Day - February 1, 2002	14222
01-556 Dr. Mary Dochios-Kameros Day	14223
01-557 Jewish Big Sister Day	14223
01-558 Lambs Farm 40th Anniversary Day	14224
01-559 Ruth Page Awards Day	14224
01-560 Brachial Plexus Injury Awareness Week	14225
01-561 Cats Day	14225
01-562 Country Music Day	14226
01-563 Illinois Society For Respiratory Care Week	14226
01-564 Food Day	14227

ISSUES INDEX I-1

Editor's Note: The Cumulative Index and Sections Affected Index will be printed on a quarterly basis. The printing schedule for the quarterly and annual indexes are as follows:

Issue 16-April 14, 2000: Data Through March	31, 2000
Issue 29-July 14, 2000: Data Through June	30, 2000
Issue 42-October 13, 2000: Data Through September	30, 2000
Issue 3-January 19, 2001: Data Through December	31, 2000 (Annual)

INTRODUCTION

The *Illinois Register* is the official state document for publishing public notice of rulemaking activity initiated by State governmental agencies. The table of contents is arranged categorically by rulemaking activity and alphabetically by agency within each category. The Register also contains a Cumulative Index listing alphabetically by agency the Parts (sets of rules) on which rulemaking activity has occurred in the current Register volume year and a Sections Affected Index listing by Title each Section (including supplementary material) of a Part on which rulemaking activity has occurred in the current volume year. Both indices are action coded and are designed to aid the public in monitoring rules.

Rulemaking activity consists of proposed or adopted new rules; amendments to or repealers of existing rules; and rules promulgated by emergency or peremptory action. Executive Orders and Proclamations issued by the Governor; notices of public information required by State statute; and activities (meeting agendas, Statements of Objection or Recommendation, etc.) of the Joint Committee on Administrative Rules (JCAR), a legislative oversight committee which monitors the rulemaking activities of State agencies; is also published in the Register.

The Register is a weekly update to the *Illinois Administrative Code* (a compilation of the rules adopted by State agencies). The most recent edition of the Code along with the Register comprise the most current accounting of State agencies' rules.

The *Illinois Register* is the property of the State of Illinois, granted by the authority of the Illinois Administrative Procedure Act [5 ILCS 100/1-1 et seq.].

REGISTER PUBLICATION SCHEDULE 2001

Issue #	Copy Due by 4:30 p.m.	Publication Date	Issue #	Copy Due by 4:30 p.m.	Publication Date
Issue 1	December 26, 2000	January 5, 2001	Issue 28	July 2	July 13
Issue 2	January 2, 2001*	January 12	Issue 29	July 9	July 20
Issue 3	January 8	January 19	Issue 30	July 16	July 27
Issue 4	January 16*	January 26	Issue 31	July 23	August 3
Issue 5	January 22	February 2	Issue 32	July 30	August 10
Issue 6	January 29	February 9	Issue 33	August 6	August 17
Issue 7	February 5	February 16	Issue 34	August 13	August 24
Issue 8	February 13*	February 23	Issue 35	August 20	August 31
Issue 9	February 20*	March 2	Issue 36	August 27	September 7
Issue 10	February 26	March 9	Issue 37	September 4*	September 14
Issue 11	March 5	March 16	Issue 38	September 10	September 21
Issue 12	March 12	March 23	Issue 39	September 17	September 28
Issue 13	March 19	March 30	Issue 40	September 24	October 5
Issue 14	March 26	April 6	Issue 41	October 1	October 12
Issue 15	April 2	April 13	Issue 42	October 9*	October 19
Issue 16	April 9	April 20	Issue 43	October 15	October 26
Issue 17	April 16	April 27	Issue 44	October 22	November 2
Issue 18	April 23	May 4	Issue 45	October 29	November 9
Issue 19	April 30	May 11	Issue 46	November 5	November 16
Issue 20	May 7	May 18	Issue 47	November 13*	November 26**
Issue 21	May 14	May 25	Issue 48	November 19	November 30
Issue 22	May 21	June 1	Issue 49	November 26	December 7
Issue 23	May 29*	June 8	Issue 50	December 3	December 14
Issue 24	June 4	June 15	Issue 51	December 10	December 21
Issue 25	June 11	June 22	Issue 52	December 17	December 28
Issue 26	June 18	June 29	Issue 1	December 26 (Wed. Noon)	January 4, 2002
Issue 27	June 25	July 6			

* Tuesday 12 noon deadline following a state holiday.

** Monday publication date following a state holiday.

DEPARTMENT OF AGRICULTURE

NOTICE OF PROPOSED AMENDMENTS

- 1) Heading of Part: Fairs Operating Under the Agricultural Fair Act
- 2) Code Citation: 8 Ill. Adm. Code 260
- 3) Section Number: Proposed Action:
260.300 Amend
260.305 Amend
260.310 Repeal
- 4) Statutory Authority: The Agricultural Fair Act [30 ILCS 120]
- 5) A Complete Description of the Subjects and Issues Involved: This proposed rule updates eligible ownership of county fair groups, eliminates the 30% restriction for junior classes at county fairs, clarifies reimbursement procedures, expands the permissible 4-H awards to include non-cash items and alters the formula for determining the amount of money to be paid to certain county fairs from the Fair and Exposition Fund.
- 6) Will these proposed amendments replace an emergency amendment in effect?
No
- 7) Do these rulemaking contain an automatic repeal date? No
- 8) Do these proposed amendments contain incorporations by reference? No
- 9) Are there any other proposed amendments pending on this Part? No
- 10) Statement of Statewide Policy Objectives: These amendments do not affect units of local government.
- 11) Time, Place and Manner in which interested persons may comment on this proposed rulemaking: A 45-day written comment period will begin on the day this notice of rulemaking appears in the *Illinois Register*. Please mail written comments on the proposed rulemaking to the attention of:
- Linda Rhodes
Department of Agriculture
State Fairgrounds, P.O. Box 19281
Springfield IL 62794-9281
217/785-5713
Facsimile: 217/785-4505
- 12) Initial Regulatory Flexibility Analysis:

- A) Types of small businesses, small municipalities and not-for-profit corporations affected: County fairs and 4-H groups

DEPARTMENT OF AGRICULTURE

NOTICE OF PROPOSED AMENDMENTS

- B) Reporting, bookkeeping or other procedures required for compliance:
None
- C) Types of professional skills necessary for compliance: None
- 13) Regulatory agenda on which this rulemaking was summarized: January 2001
- The full text of the Proposed Amendments begins on the next page:

DEPARTMENT OF AGRICULTURE

NOTICE OF PROPOSED AMENDMENTS

TITLE 8: AGRICULTURE AND ANIMALS
CHAPTER I: DEPARTMENT OF AGRICULTURE
SUBCHAPTER J: FAIRS

PART 260

FAIRS OPERATING UNDER THE AGRICULTURAL FAIR ACT

SUBPART A: FAIRS OPERATING UNDER THE
AGRICULTURAL PREMIUM FUND

Section	Definitions
260.5	Appropriations
260.10	Declaration of Intention
260.15	State Aid Payable on the Authorized Bases
260.20	Denial of State Aid Claim (Repealed)
260.25	Premiums and Receipts for Premiums Paid
260.30	Stall or Pen Fees
260.35	Entry Fees
260.40	County Fair Organization and Operation
260.45	Exhibits and Livestock; Presence on the Fairgrounds and Early Release
260.50	Procedure
260.55	Premium Book
260.60	Horse Racing -- Harness and Running
260.65	Heavy Horses
260.70	Light Horses and Western Horses
260.75	Western Horse Shows (Repealed)
260.80	Livestock Classification
260.85	Registration Papers
260.90	Inspections and Inspectors Reports (Repealed)
260.95	Junior Shows
260.100	A State Aid Report
260.105	Growth Incentive Program
260.110	Pro Rata (Grant) Payments and Justification
260.115	Petitioning for Base Adjustments (Repealed)
260.117	Administrative Rules (Formal Administrative Hearings, Contested Cases, Petitions, and Administrative Procedures)

SUBPART B: FAIRS

PARTICIPATING IN THE REHABILITATION FUND

Section	Appropriation
260.200	Ownership of Grounds
260.205	Rehabilitation Declaration of Intent
260.207	Rehabilitation Claims
260.210	Major Building Projects (Repealed)
260.215	A Rehabilitation Report
260.220	

DEPARTMENT OF AGRICULTURE

NOTICE OF PROPOSED AMENDMENTS

260.225 Pro Rata Payments and Justification

SUBPART C: PROCEDURES FOR PARTICIPATION
IN THE 4-H FUND

Section	Appropriation and Eligibility
260.300	A 4-H Claim Report
260.305	Pro Rata Payment and Justification (Repealed)
260.310	

SUBPART D: PROCEDURES FOR PARTICIPATION
IN THE VOCATIONAL AGRICULTURE FUND

Section	Appropriation
260.400	Eligibility for Premiums
260.405	List of Premiums Sent to Bureau
260.410	Financial Statement
260.415	Pro Rata Payments
260.420	Fiscal Accounting (Repealed)
260.425	

SUBPART E: FAIRS OPERATING UNDER THE
FAIR AND EXPOSITION FUND

Section	Appropriation (Repealed)
260.500	Eligibility
260.505	Ownership or Leasing of Grounds
260.510	Declaration of Intention
260.515	Transfer of Funds
260.520	Distribution of Funds, Declaration of Intention, Penal Bond, and Audit
260.525	Expenditure of Funds
260.530	Accumulation of Funds for Major Building Projects
260.535	Administrative Rules (Formal Administrative Hearings, Contested Cases, Petition, and Administrative Procedures)
260.540	

AUTHORITY: Implementing and authorized by the Agricultural Fair Act [30 ILCS 120].

SOURCE: Rules and Regulations Governing Fairs Operating Under The Agricultural Fair Act, filed December 6, 1977, effective January 1, 1978; codified at 5 Ill. Reg. 10529; amended at 6 Ill. Reg. 4109, effective April 6, 1982; amended at 9 Ill. Reg. 3233, effective March 1, 1985; amended at 10 Ill. Reg. 7654, effective April 28, 1986; amended at 11 Ill. Reg. 10175, effective May 15, 1987; amended at 21 Ill. Reg. 2139, effective January 29, 1997; amended at 26 Ill. Reg. _____, effective _____.

DEPARTMENT OF AGRICULTURE

NOTICE OF PROPOSED AMENDMENTS

SUBPART C: PROCEDURES FOR PARTICIPATION IN THE 4-H FUND

Section 260.300 Appropriation and Eligibility

- a) Extension 4-H groups Agricultural-extension-clubs-(4-H-Clubs) shall be eligible to participate in appropriations made to the Department of Agriculture for premiums and judges' fees paid at 4-H Club shows or exhibitions in accordance with the provisions of Section 14 of the Act.
- b) 4-H group club shows must have separate and distinct classes from the open-show-classes.
- c) All exhibit classes or types of projects must be approved by the University of Illinois Extension State 4-H Office within three weeks prior to the show or exhibition.
- d) All projects must be judged or exhibited at a public display where reasonable prior public notice of the event has been given.
- e) The amount or method used to determine the amount of the 4-H premium or the type of award used in lieu of a 4-H premium must be publicly stated and notice sent to the University of Illinois Extension State 4-H Office in advance of the show or exhibition.
- f) Only one show or exhibition of a class or type of project work for each 4-H group will be eligible for awards as provided in Section 14 of the Agriculture Fair Act.
- g) Only awards to individuals during the current year are eligible for reimbursement.
- e) Livestock--and--exhibits--must--be--on--the--fairgrounds--on--the--opening--day--of--the--4--H--Club--show--and--remain--until--the--close--of--the--4--H--Club--show--unless--earlier--dismissal--is--granted--by--the--Bureau--in--accordance--with--Section--260-50(a)-
- d) The--rate--per--member--and--amount--of--judges'--fees--eligible--for--reimbursement--shall--be--in--accordance--with--Section--14--of--the--Act-

(Source: Amended at 26 Ill. Reg. _____, effective _____)

Section 260.305 A 4-H Claim Report

- a) Extension leaders of each county or unit The-County-Extension-Advisor, Agent, shall certify to the State "4-H" Club officer under oath, on a blank form furnished by the Department, the amount paid out in premiums at the show or shows for the current year, and the name of the officer or organization making the payments and the number of members enrolled for the current year. Records verifying award recipients must be available and maintained for 3 years for official review. This-certification-shall-be-accompanied-by--itemized--receipts--as--evidence--of--the--certified--amounts--and--it--must--be--filed--with--the--Department--before--December--31--of--each--year--(30-1565-130/14)----if--the--County--Extension--Advisor--Agriculture--is--unavailable--an--authorized

DEPARTMENT OF AGRICULTURE

NOTICE OF PROPOSED AMENDMENTS

representative-of-the-Cooperative-Extension-Service-may-sign--the--4-H-claim-report--A-copy-of-the-premium-book-or-premium-list-shall accompany-the-4-H-claim-report-

- b) This report must be filed with the Bureau before December 31 of each year.
- c) The State 4-H Office shall notify the Bureau of the number of members enrolled in each county or unit before December 31 of each year.
- d) The extension leader of each county or unit shall provide itemized receipts as evidence of the certified amounts to the State 4-H Office. The State 4-H Office shall file certification of the eligible amount claimed for awards for each county or unit with the Department before December 31 of each year.
- e) If the amount of the appropriation is sufficient, the Department will reimburse each county or unit for justified expenditures for awards up to an amount equal to \$10.50 multiplied by the State 4-H Office's certified number of enrolled members for that county or unit.
- f) If the amount appropriated is insufficient to reimburse counties or units as specified in subsection (e) of this Section, then the sum shall be prorated.
- g) If there remains an amount of the appropriation after the claims as specified in subsection (e) of this Section have been paid, then the Department shall provide reimbursement for justified judge's fees up to \$400 for each county.
- h) If there remains an amount of the appropriation after the claims as specified in subsection (g) of this Section, it shall be distributed as a grant to the counties or units on a prorated basis of membership. A fiscal accounting with receipts of expenditure of grant monies shall be presented to the State 4-H Office. Certification that expenditures of grant monies has been justified to the counties or units shall be filed with the Department no later than December 31 of each year in which the 4-H group received the grant monies.
- Grant monies under this Subpart may be used only for the following purposes:
- 1) Premiums paid in excess of the per member amount as established in the annual appropriation for the Department in the fiscal year for which the report was submitted. Contributions made by other persons or organizations sponsoring exhibitions, classes or awards are not eligible for reimbursements.
 - 2) Ribbons, trophies, engraving and entry forms for 4-H exhibit classes that are not sponsored by or provided by other persons or organizations.
 - 3) Judges' fees in excess of the \$400 allotted per county.
 - 4) Rental of facilities and/or transportation needed to conduct the 4-H show or exhibition.
 - i) Any grant monies not utilized by the 4-H group as specified in subsection (h) of this Section shall be reimbursed to the Department by December 31 of the year in which the grant monies were received.
- e) The--4-H--claim-report--shall--also--include--a--fiscal--accounting--of--the

DEPARTMENT OF AGRICULTURE

NOTICE OF PROPOSED AMENDMENTS

expenditure of pro-rata money if any that was received by the 4-H Club during that calendar year--justification of the expenditure of pro-rata funds shall be based upon expenses incurred for the show that was held in the year in which the pro-rata money was actually received by the 4-H Club.

- d) Payment of eligible claims shall be mailed to the organization named on the 4-H claim report, in care of the person designated on the report as the Extension Advisor-Agriculture.

(Source: Amended at 26 Ill. Reg. _____, effective _____)

Section 260.310 Pro Rata Payment and Justification (Repealed)

- a) If there remains any amount in the appropriation for 4-H Clubs after all eligible claims are paid, this amount will be prorated in accordance with Section 14 of the Act.

- b) A fiscal accounting of pro-rata monies received by the 4-H Club shall be made in accordance with Section 260.305. Pro-rata payments may be used only for the following purposes:

- 1) Premiums paid in excess of the per member amount as established in the annual appropriation bill for the Department of Agriculture in the fiscal year for which the report is being submitted. Contributions made by other persons or organizations sponsoring events or classes are not eligible for pro-rata reimbursement.

- 2) Ribbons, rosettes, trophies, engraving, and entry forms for 4-H classes.

- 3) Judges' fees in excess of the \$400 allotted per county.

- 4) Printing of Premium Books.

- 5) Additional secretarial help needed to help with the show (salaries and expenses of county extension personnel do not qualify for pro-rata reimbursement).

- 6) Rental of facilities and rental and/or purchase of equipment for conducting 4-H shows or exhibitions such as buildings, tents, and equipment needed for the show.

- e) Any pro-rata money not utilized by the 4-H Club or spent for purposes other than as set forth in Section 260.310(b) shall be reimbursed to the Department of Agriculture within 15 days from the time written notice is received from the Bureau indicating the amount of reimbursement due.

(Source: Repealed at 26 Ill. Reg. _____, effective _____)

OFFICE OF BANKS AND REAL ESTATE

NOTICE OF PROPOSED AMENDMENT

- 1) Heading of the Part: Corporate Fiduciary Receivership Account

- 2) Code Citation: 38 Ill. Adm. Code 397

- 3) Section Numbers:

397.10 Amendment

397.20 Amendment

397.30 Amendment

397.40 Amendment

397.50 Amendment

- 4) Statutory Authority: Implementing and authorized by Section 5-10 of the Corporate Fiduciary Act (205 ILCS 620/5-10).

- 5) A complete description of the subjects and issues involved: Public Act 92-485 amended the Corporate Fiduciary Act to increase the maximum amount that can be collected in the Corporate Fiduciary Receivership Account from \$350,000 to \$4,000,000. The proposed rulemaking amends Part 397 to implement the changes enacted in Public Act 92-485.

- 6) Will these proposed amendments replace emergency amendments currently in effect? No

- 7) Do these rulemaking contain an automatic repeal date? No

- 8) Do these proposed amendments contain incorporations by reference? No

- 9) Are there any other proposed amendments pending to this Part? No

- 10) Statement of Statewide Policy Objectives: There is no effect on local government.

- 11) Time, place and manner in which interested persons may comment on this proposed rulemaking: Interested parties should submit written comments or views concerning the proposed rulemaking to the attention of:

Alan Anderson
Legislative Liaison
Office of Banks and Real Estate
500 East Monroe
Springfield, Illinois 62701
217/782-3000
Telefax: 217/558-4297

- 12) Initial Regulatory Flexibility Analysis:

- A) Types of small businesses affected: The proposed rulemaking does not affect small businesses. It applies to Illinois trust companies and

OFFICE OF BANKS AND REAL ESTATE

NOTICE OF PROPOSED AMENDMENT

trust departments of Illinois financial institutions.

B) Reporting, bookkeeping or other procedures required for compliance:
None

C) Types of professional skills necessary for compliance: None

13) Regulatory Agenda on which this rulemaking was summarized: January 2001

The full text of the Proposed Amendments begins on the next page.

OFFICE OF BANKS AND REAL ESTATE

NOTICE OF PROPOSED AMENDMENT

TITLE 38: FINANCIAL INSTITUTIONS

CHAPTER II: OFFICE OF BANKS AND REAL ESTATE

PART 397

CORPORATE FIDUCIARY RECEIVERSHIP ACCOUNT

Section

397.10 Purpose

397.20 Definitions

397.30 Quarterly Fee to Fund the Account

397.40 Restoring the Account

397.50 Alternate Fee Assessment

to Avoid Excess Accumulation in Account When
the Balance in the Account is Between \$967,250 and \$350,000

AUTHORITY: Implementing and authorized by Section 5-10 of the Corporate Fiduciary Act [205 ILCS 620/5-10].

SOURCE: Adopted at 15 Ill. Reg. 167, effective January 11, 1991; recodified from Chapter II, Commissioner of Banks and Trust Companies, to Chapter II, Office of Banks and Real Estate, pursuant to PA 89-508, at 20 Ill. Reg. 12645; amended at 26 Ill. Reg. _____, effective _____.

Section 397.10 Purpose

This ~~the purpose of~~ this Part establishes ~~is to establish~~ the manner of assessing fees to fund the Corporate Fiduciary Receivership Account to the amount established by Section 5-10 of the Corporate Fiduciary Act ~~in the amount of \$350,000 over a two-year period~~ and of replenishing ~~to replenish~~ the account following any disbursement.

(Source: Amended at 26 Ill. Reg. _____, effective _____)

Section 397.20 Definitions

"A" means the total number of corporate fiduciaries.

"Account" means the Corporate Fiduciary Receivership Account.

"Act" means the Corporate Fiduciary Act [205 ILCS 620].

"B" means the number of examiner days expended in the most recent examination of the Illinois Trust Company that was completed prior to the end of the calendar quarter preceding the quarter for which the fee is being assessed.

"Balance" means the amount in the account, adjusted for any accounts receivable and any accounts payable, as of the last day of the

OFFICE OF BANKS AND REAL ESTATE

NOTICE OF PROPOSED AMENDMENT

calendar quarter preceding the quarter for which a fee may be assessed.

"C" means the total number of examiner days expended in the most recent examinations of all Illinois Trust Companies, calculated as of the last day of the calendar quarter preceding the quarter for which the fee is being assessed.

"Corporate Fiduciary" means any trust company, trust department, or other entity that holds a certificate of authority issued under Article II of the Act authorizing the exercise of trust powers. in Illinois. shall have the meaning ascribed to it in Section 1-5-05 of the Corporate-Fiduciary-Act-(205-1568-620/1-5-05).

"D" means the amount necessary to raise the balance in the Account to the maximum amount established by Section 5-10 of the Act \$350,000.

"Illinois Trust Company" means a non-depository corporation, limited liability company, or other entity organized incorporated in this State that which has been given a certificate of authority to accept and execute trusts by the Commissioner of Banks and Real Estate pursuant to Article II of the Act.

(Source: Amended at 26 Ill. Reg. _____, effective _____)

Section 397.30 Quarterly Fee to Fund the Account

a) Each corporate fiduciary will be assessed a quarterly fee of \$200 \$37-50 until the balance of the account reaches the maximum amount established by Section 5-10 of the Act \$350,000.

b) Each Illinois trust company will be assessed an additional quarterly fee until the balance of the account reaches the maximum amount established by Section 5-10 of the Act \$350,000. The additional quarterly fee will be based on the following formula:

Additional quarterly fee
to be paid by each
Illinois trust company

$$= \frac{(4,000,000 - 8,000A)}{40} \times \frac{B}{C}$$

$$\frac{(350,000 - 300A) \times B}{\text{-----}} \div \text{-----} \times \text{-----}$$

Section 397.40 Restoring the Account

If a receivership of a corporate fiduciary requires expenditures are made from the Account, assessments under Section 397.30 will be continued or reinstituted

OFFICE OF BANKS AND REAL ESTATE

NOTICE OF PROPOSED AMENDMENT

until the balance in the Account is restored to the maximum amount established by Section 5-10 of the Act \$350,000.

(Source: Amended at 26 Ill. Reg. _____, effective _____)

Section 397.50 Alternate Fee Assessment to Avoid Excess Accumulation in Account When the Balance in the Account is Between \$306,250 and \$350,000

a) Notwithstanding any other Section of this Part, if for any quarter, the balance of the Account is at a level that fees to be collected under Section 397.30(a) of this Part would cause the balance to exceed the maximum amount established by Section 5-10 of the Act, between \$306,250 and \$350,000 a fee will be assessed on all corporate fiduciaries instead of the fees set forth in Section 397.30, based on the basis of the following formula:

Fee to be paid by each corporate fiduciary = $\frac{D}{A} \times 350,000$

b) Notwithstanding any other Section of this Part, if the balance of the Account is between \$306,250 and \$350,000 each Illinois trust company will be assessed an additional fee, the additional fee will be determined on the basis of the following formula:

Additional fee to be paid by each Illinois trust company = $\frac{(350,000 - 300A) \times B}{\text{-----}} \div \text{-----} \times \text{-----}$

(Source: Amended at 26 Ill. Reg. _____, effective _____)

DEPARTMENT OF COMMERCE AND COMMUNITY AFFAIRS

NOTICE OF PROPOSED AMENDMENTS

1) Heading of the Part: Eliminate the Digital Divide Program

2) Code Citation: 14 Ill. Adm. Code 546

Section Numbers:	Proposed Action:
546.10	Amendment
546.110	Amendment
546.120	Amendment
546.130	Amendment
546.140	Amendment
546.160	Amendment
546.170	Amendment
546.180	Amendment

4) Statutory Authority: Implementing Section 5-30 and authorized by Section 5-105 of the Eliminate the Digital Divide Law [30 ILCS 780], as amended by PA 92-22.

5) A Complete Description of the Subjects and Issues Involved: The recently passed Telecommunications bill (i.e., HB2900) amended the Eliminate the Digital Divide Law [30 ILCS 780]. The general purpose of the Act has been broadened beyond the support of Community Technology Centers. Public hospitals, libraries, and park districts have now been added to the list of entities eligible to apply for a grant under the Community Technology Center Grant Program. The threshold for being determined an "eligible community" has also been lowered. "Training and instruction" has been added to the list of eligible activities. Additionally, grantees are now required to provide a minimum of 12 hours of public access to computers and related instruction at one of their educational facilities each week. Finally, the Department is proposing several minor editorial amendments to the Part.

6) Will this proposed amendment replace an emergency amendment currently in effect? No

7) Does this rulemaking contain an automatic repeal date? No

8) Does this proposed amendment contain incorporations by reference? No

9) Are there any other proposed amendments pending on this Part? No

10) Statement of Statewide Policy Objectives: This rulemaking does not create or expand a State mandate as defined in Section 3(b) of the State mandates Act.

11) Time, Place and Manner in which interested persons may comment on this proposed rulemaking:

DEPARTMENT OF COMMERCE AND COMMUNITY AFFAIRS

NOTICE OF PROPOSED AMENDMENTS

Ms. Raya Bogard
Illinois Administrative Code Rules Manager
Illinois Department of Commerce and Community Affairs
James R. Thompson Center
100 West Randolph Street, Suite 3-400
Chicago, Illinois 60601
(312) 814-9593

12) Initial Regulatory Flexibility Analysis:

A) Types of small businesses, small municipalities, and not for profit corporations affected: Eligible applicants include public hospitals, libraries, park districts, educational agencies, public and private nonprofit and for-profit agencies and organizations. These entities may apply for grant funds under the Community Technology Center Grant program (Subpart B of this Part) to undertake activities defined as eligible under the Eliminate the Digital Divide Law [30 ILCS 780].

B) Reporting, bookkeeping or other procedures required for compliance: Grantees would already possess the minimum bookkeeping and reporting requirements needed for compliance.

C) Types of professional skills necessary for compliance: Necessary skills relate to the personal computers (PCs), computer application programs, computer networks, telecommunications, and instructional techniques. Grantees must also have skills associated with the administration of public programs including, program and financial management skills.

13) Regulatory agenda on which this rulemaking was summarized: This rulemaking was not included on either of the 2 most recent regulatory agendas because: This rulemaking was not anticipated and did not appear in the Department's Regulatory Agenda.

The full text of the Proposed Amendments begins on the next page:

DEPARTMENT OF COMMERCE AND COMMUNITY AFFAIRS

NOTICE OF PROPOSED AMENDMENTS

CHAPTER I: DEPARTMENT OF COMMERCE AND COMMUNITY AFFAIRS
TITLE 14: COMMERCE
SUBPART I: DEPARTMENT OF COMMERCE AND COMMUNITY AFFAIRS

PART 546

ELIMINATE THE DIGITAL DIVIDE PROGRAM

SUBPART A: ADMINISTRATIVE REQUIREMENTS

Section
546.10 General Purposes
546.20 Definitions
546.30 Legal Requirements

SUBPART B: COMMUNITY TECHNOLOGY CENTER GRANT PROGRAM

Section

546.110 Purpose
546.120 Determination of Eligible Communities
546.130 Eligible Applicants and Limitations on Certain Educational Entities
546.140 Authorized Activities
546.150 Allowable Costs
546.160 Proposal Content
546.170 Review Criteria and Negotiation Procedures
546.180 Limitations
546.190 Reporting

AUTHORITY: Implementing Section 5-30 and authorized by Section 5-105 of the Eliminate the Digital Divide Law [30 ILCS 780].

SOURCE: Adopted by emergency rulemaking at 24 Ill. Reg. 17361, effective November 6, 2000, for a maximum of 150 days; adopted at 25 Ill. Reg. 3646, effective February 26, 2001; amended at 26 Ill. Reg. _____, effective _____.

SUBPART A: ADMINISTRATIVE REQUIREMENTS

Section 546.10 General Purposes

The purpose of the Eliminate the Digital Divide Program is to expand access to information technology and educational opportunities through Community Technology Centers (CTCs) located in low income communities and to assist public hospitals, libraries, and park districts in eliminating the digital divide [30 ILCS 780/5-30(a)]. Grants may be awarded to plan, establish, administer and expand such CTCs.

(Source: Amended at 26 Ill. Reg. _____, effective _____)

DEPARTMENT OF COMMERCE AND COMMUNITY AFFAIRS

NOTICE OF PROPOSED AMENDMENTS

SUBPART B: COMMUNITY TECHNOLOGY CENTER GRANT PROGRAM

Section 546.110 Purpose

Subject to appropriation, the Department shall make grants to plan, establish, administer, and expand Community Technology Centers and to assist public hospitals, libraries, and park districts in eliminating the digital divide. The purposes of such grants shall include, but shall not be limited to, underwriting expenses relating to volunteer recruitment and management, training and instruction, infrastructure, and related goods and services for Community Technology Centers. [30 ILCS 780/5-30(a)] (Section 5-30(a)-of-the Act)

(Source: Amended at 26 Ill. Reg. _____, effective _____)

Section 546.120 Determination of Eligible Communities

To be eligible to apply for a grant, a Community Technology Center, public hospital, library, or park district must serve a community in which not less than 40% 50% of the students are eligible for a free or reduced price lunch under the national school lunch program or in which not less than 30% 40% of the students are eligible for a free lunch under the national school lunch program.

a) The Department shall annually obtain a list of schools and school districts meeting these criteria from the Illinois State Board of Education (ISBE). The Department shall supplement this administrative data from ISBE with public use quality poverty data from the U.S. Department of Commerce, Bureau of the Census. Poverty data and the administrative data from the ISBE will be used to determine eligible communities.

b) If funding is insufficient to approve all grant applications for a particular fiscal year, the Department may impose a higher minimum percentage threshold for that fiscal year [30 ILCS 780/5-30(b)] (Section 5-30(b)-of-the-Act). The Department shall make such a determination after applications are received and the need is determined, as evidenced by the total amount of funding requested.

(Source: Amended at 26 Ill. Reg. _____, effective _____)

Section 546.130 Eligible Applicants and Limitations on Certain Educational Entities

To be eligible, all applicants shall assure that services will be accessible to the general public and access will not be restricted on the basis of age, race, gender, minority status, religion, disability, or national origin.

a) Eligible Applicants: The following entities are eligible applicants

DEPARTMENT OF COMMERCE AND COMMUNITY AFFAIRS

NOTICE OF PROPOSED AMENDMENTS

for grants under the Community Technology Center Grant Program:

- 1) public hospitals.
- 2) libraries.
- 3) park districts.
- 4) State educational agencies,
- 5) local educational agencies,
- 6) institutions of higher education,
- 7) other public and private nonprofit or for-profit agencies and organizations,

8) a group of eligible entities if the group follows the procedures for group applications in 34 CFR 75.127-129 of the federal Education Department General Administrative Regulations, and

9) any entities that have received a Community Technology Center grant under the federal Community Technology Centers. [30 ILCS 780/5-30(b)] {Section--5-30(b)--of--the-Act} The grant-recipient shall assure that the services of the Community Technology Center are accessible to the general public and shall not restrict access on the basis of age, race, gender, minority status, religion, disability, or national origin.

b) Limitations on Certain Educational Entities: To be eligible to apply for a grant under the Community Technology Center program, a local educational agency or public or private educational agency or organization must provide to the public computer access and educational services using information technology at one or more of its educational buildings or facilities at least 12 hours each week.

(Source: Amended at 26 Ill. Reg. _____, effective _____)

Section 546.140 Authorized Activities

In general, authorized activities shall include, but not be limited to, volunteer recruitment and management, training and instruction, infrastructure, and related goods and services for the Community Technology Center Centers Grant Program [30 ILCS 780/5-30(a)] {Section--5-30(a)--of--the-Act}. Grant recipients ~~are~~ typically provide a variety of services and programs, such as:

- a) Training to familiarize youth and adults with basic skills needed to access and utilize computers, common computer applications programs (e.g., word processing) and the Internet;
- b) vocational skills training relating to information technology occupations;
- c) access to career related information, employment opportunities, and related search capabilities available through the Internet;
- d) computerized instruction in:
 - 1) basic literacy skill;
 - 2) GED preparation; and
 - 3) English as a second language instruction;
- e) before and after school programs for youth for academic enrichment and

DEPARTMENT OF COMMERCE AND COMMUNITY AFFAIRS

NOTICE OF PROPOSED AMENDMENTS

- reinforcement:
- f) computer skills training and support for entrepreneurs and small businesses;
 - g) distance learning and video conferencing;
 - h) access to assistive technology for disabled populations;
 - i) professional development for teachers; and
 - j) promotion of home access to computers.

(Source: Amended at 26 Ill. Reg. _____, effective _____)

Section 546.160 Proposal Content

Subject to appropriations, the Department shall issue instructions and formats to eligible applicants for the submittal of grant proposals in advance of each funding cycle. The proposal shall contain sufficient information to clearly explain the nature and potential benefits of the proposed project. The proposal will generally include the following sections:

- a) an executive summary;
- b) a description of the applicant demonstrating that the applicant ~~are~~ is located within an eligible community, as required by Section 546.120 of this Part and that the applicant is eligible to apply for a grant pursuant to the requirements of Section 546.130 of this Part;
- c) a description of the applicant ~~Community--Technology--Center--for proposed-center~~ including:
 - 1) a description of the organization and location of the applicant agency ~~are~~;
 - 2) a description of the services typically provided;
 - 3) a description of the technological infrastructure already in place;
 - 4) a description of the populations typically served;
 - 5) a description of actual related performance of the applicant ~~are~~, as compared to outcome objectives specified in past State or federal grants for related purposes; and
 - 6) a description of the level of community support for the applicant ~~are~~;
- d) a description of the technology-related needs of the targeted community, including:
 - 1) a description of what the needs are;
 - 2) a description of how needs were determined, including methods used to collect community input; and
 - 3) a description of existing community resources addressing those needs;
- e) a description of the activities proposed by the applicant ~~are~~ to be undertaken during the period of performance of the grant to address the needs;
- f) a schedule for the implementation of proposed activities;
- g) measurable outcome objectives to be achieved during the period of

DEPARTMENT OF COMMERCE AND COMMUNITY AFFAIRS

NOTICE OF PROPOSED AMENDMENTS

- performance for the grant;
- h) a budget requesting grant funds for allowable costs and a justification for all costs requested;
- i) a description of the education and related experience of key project personnel; and
- j) a description of the applicant's ~~etc~~ participation in related programs.

(Source: Amended at 26 Ill. Reg. _____, effective _____)

Section 546.170 Review Criteria and Negotiation Procedures

Grant proposals shall be reviewed on a competitive basis. Based on the competitive review, applicants shall be selected to enter into negotiations with the Department for a grant. The purpose of negotiations shall be to arrive at mutually acceptable grant provisions, including general, budgetary, and scope-of-work provisions. The final decision to make a grant award will be made by the Director of the Department. The Department shall use the following criteria when reviewing grant proposals and making awards:

- a) Need of the Eligible Community: In determining relative need, the Department shall consider the following factors:

- 1) economic need in each target community, as evidenced by the proportion of local youth eligible for reduced cost, or free lunches under the National School Lunch Program; and
- 2) the level of access to technology of the populations to be served by the applicant ~~etc~~.

- b) Quality of the Proposal: The Department shall examine the overall quality of the activities and programs provided by the applicant ~~etc~~. In making this judgment the Department shall consider:

- 1) the range, nature, and volume of activities to be undertaken, or proposed to be undertaken, ~~by the etc~~;
- 2) the measurable performance outcomes proposed by the applicant;
- 3) the past success of the applicant; and
- 4) the qualifications of staff assigned to deliver project activities.

- c) Community Support ~~for the etc~~: The Department shall consider overall level of community support for the applicant's proposal ~~etc~~. In making this judgment the Department shall consider:

- 1) the amount of local community input received by the applicant in the design and operation of the proposed services ~~etc~~; and
- 2) the level of financial support received by the applicant from private/non-governmental sources.

- d) Cost: The Department shall examine the reasonableness of costs relative to the type of expenses being proposed.

- e) Geographic Distribution of Awards: Along with the other criteria listed in this Section, the Director of the Department shall consider the geographic distribution of awards throughout the State when making

DEPARTMENT OF COMMERCE AND COMMUNITY AFFAIRS

NOTICE OF PROPOSED AMENDMENTS

final decisions regarding grant awards.

(Source: Amended at 26 Ill. Reg. _____, effective _____)

Section 546.180 Limitations

Grants are subject to the following limitations:

- a) ~~The total amount of grants under the Community Technology Center Grant Program in fiscal year 2001 shall not exceed \$2,000,000. [30 ILCS 780/5-30(a)]~~ ~~(Section 5-30(a) of the Act)~~
- b) ~~No Community Technology Center may receive a grant of more than \$50,000 under this program in a particular fiscal year. [30 ILCS 780/5-30(a)]~~ ~~(Section 5-30(a) of the Act)~~

(Source: Amended at 26 Ill. Reg. _____, effective _____)

DEPARTMENT OF COMMERCE AND COMMUNITY AFFAIRS

NOTICE OF PROPOSED REPEALER

1) Heading of the Part: Special Youth Initiatives Program

2) Code Citation: 47 Ill. Adm. Code 2

3) Section Numbers: Proposed Action:

2.10	Repeal
2.15	Repeal
2.20	Repeal
2.30	Repeal
2.40	Repeal
2.50	Repeal

4) Statutory Authority: Implementing the Gang Control Grant Act [35 ILCS 755] and authorized by Section 605-65 of the Civil Administrative Code [20 ILCS 605/605-65]

5) A Complete Description of the Subjects and Issues Involved: These rules pertain to the administration of a grant program for community groups for gang control. These rules are obsolete as the program has been unfunded for several years.

6) Will these rulemakings replace emergency rulemakings currently in effect?
No

7) Does this rulemaking contain an automatic repeal date? No

8) Do these proposed rulemakings contain incorporations by reference? No

9) Are there any rulemakings pending on this part? No

10) Statement of Statewide Policy Objectives: This rulemaking does not create or expand a State mandate as defined in Section 3(b) of the State Mandates Act [30 ILCS 805].

11) Time, Place and Manner in which interested persons may comment on this proposed rulemaking:

Ms. Raya Bogard
Illinois Administrative Code Rules Manager
Illinois Department of Commerce and Community Affairs
James R. Thompson Center
100 West Randolph Street, Suite 3-400
Chicago, Illinois 60601
(312) 814-9593

12) Initial Regulatory Flexibility Analysis:

A) Types of small businesses and small municipalities affected: None

DEPARTMENT OF COMMERCE AND COMMUNITY AFFAIRS

NOTICE OF PROPOSED REPEALER

B) Reporting, bookkeeping or other procedures required for compliance:
None

C) Types of professional skills necessary for compliance: None

13) Regulatory Agenda on which this rulemaking was summarized: This rulemaking was not included on either of the 2 most recent regulatory agendas because: This rulemaking was not anticipated and did not appear in the Department's Regulatory Agenda.

The full text of the Proposed Repealer begins on the next page:

DEPARTMENT OF COMMERCE AND COMMUNITY AFFAIRS

NOTICE OF PROPOSED REPEALER

TITLE 47: HOUSING AND COMMUNITY DEVELOPMENT
CHAPTER I: DEPARTMENT OF COMMERCE AND COMMUNITY AFFAIRS

PART 2

SPECIAL YOUTH INITIATIVES PROGRAM (REPEALED)

Section	Purpose
2.10	Definitions
2.15	Definitions
2.20	Certification of Community-Based Organizations
2.30	Project Application
2.40	Certification and Project Approval
2.50	Project Administration

AUTHORITY: Implementing "AN ACT to provide for grants to community groups and to assist local government programs for gang control, amending certain Acts therein named" (Ill. Rev. Stat. 1986 Supp., ch. 127, pars. 3301 et seq.) and authorized by Section 46.42 of the Civil Administrative Code of Illinois (Ill. Rev. Stat. 1985, ch. 127, par. 46.42).

SOURCE: Adopted at 11 Ill. Reg. 6408, effective March 26, 1987; amended at 11 Ill. Reg. 15605, effective September 15, 1987; repealed at 26 Ill. Reg. _____, effective _____.

Section 2.10 Purpose

The Special Youth Initiatives Program implements "AN ACT to provide for grants to community groups and to assist local government programs for gang control, amending certain Acts therein named" (Ill. Rev. Stat. 1986 Supp., ch. 127, pars. 3301 et seq.).

Section 2.15 Definitions

Entered Employment Rate - Entered employment rate, for the purposes of this Part, is the percent of unemployed youths who gained employment.

Poverty - Poverty, for the purposes of this Part, shall have the same meaning as defined in the United States Department of Commerce, Bureau of the Census, 1980 Census of Population and Housing Users' Guide, Part B. Glossary.

Underemployment - Underemployment, for the purposes of this Part, occurs when workers wish to work full time, but because of economic conditions, worked fewer than 35 hours during the reference week.

Unemployment - Unemployment, for the purposes of this Part, shall have the same meaning as defined in the United States Department of Commerce, Bureau of the Census, 1980 Census of Population and Housing

DEPARTMENT OF COMMERCE AND COMMUNITY AFFAIRS

NOTICE OF PROPOSED REPEALER

Users' Guide, Part B. Glossary.

Section 2.20 Certification of Community-Based Organization.

Only organizations which are certified by the Department of Commerce and Community Affairs (Department) and which operate projects for the improvement of the quality of life in low and moderate income neighborhoods, and which provide alternatives to participation in gangs by juveniles, are eligible to participate. In order for a community-based organization to be certified by the Department, it shall submit an application for certification on a form provided by the Department on an annual basis prior to the deadline of November 26. Certification materials shall include the following information pursuant to Section 3 of the Act:

- a) A description of the applicant community-based organization detailing:
 - 1) The constituency of the applicant organization, composed of residents of the affected neighborhood;
 - 2) Names of the Board of Directors of the community-based organization, at least one third of which have been elected by the organization's constituents; and
 - 3) Evidence of incorporation as an Illinois not-for-profit organization and proof of tax exempt status in accordance with the United States Department of Treasury, under the provisions of Section 501(c)(3) of the Internal Revenue Code (26 U.S.C. 501(c)(3)).
- b) A description of the characteristics of the neighborhood served by the community-based organization or the municipality in which the neighborhood is situated, demonstrating that it displays two or more of the following characteristics:
 - 1) The median income is not more than 75 percent of the state's median income, based on information obtained from sources such as the Illinois Department of Labor, census data, locally obtained data;
 - 2) The percent of the population receiving public assistance or the percent of families in poverty is above the state average, based on information obtained from sources such as the Illinois Department of Public Aid, census data, locally obtained data;
 - 3) The unemployment or underemployment rate is greater than the state average for any 18-month period in the last two years, based on information obtained from sources such as the Illinois Department of Employment Security, census data, locally obtained data;
 - 4) The deteriorated physical environment has a per capita equalized assessed valuation below state or county averages, or a percent of housing units built prior to 1939 which is higher than the state average, based on information obtained from sources such as the Illinois Department of Revenue, census data, locally obtained data.

DEPARTMENT OF COMMERCE AND COMMUNITY AFFAIRS

NOTICE OF PROPOSED REPEALER

Section 2.30 Project Application

Any potentially certified community-based organization seeking to have a project approved for a grant must submit an application in a form provided by the Department on an annual basis prior to the deadline of November 26. The application shall include the following information, pursuant to Section 4 of the Act:

- a) A description of the nature of the project including:
 - 1) The purpose and objectives of the project;
 - 2) The organization's history of experience with similar projects;
 - 3) Coordination and management of the project, including activity time lines and standards for measuring the performance of program participants;
 - 4) Job descriptions and qualifications of applicants;
 - 5) Coordination with existing community resources and agencies.
- b) Statements as to how the project meets the following criteria:
 - 1) *Contributes to the self-help efforts of the residents of the area involved;*
 - 2) *Involves the residents of the area in planning and implementation;*
 - 3) *Lacks sufficient resources to be carried out;*
 - 4) *Is under the fiscal control of the community-based organization.*
- c) A description as to how the project will provide youth, aged 14-21, with alternatives to participation in gangs in one of the following ways:
 - 1) Creating permanent jobs;
 - 2) Stimulating neighborhood business activity, such as through cottage industries, home-based business;
 - 3) Strengthening community-based organizations through increased membership, leadership development, successful project management, increased community financial support, community recognition and awareness;
 - 4) Providing job training services leading to self-employment or permanent employment, which are coordinated with existing state or federal job training programs, such as classroom training, on-the-job-training, special workshops, or tutoring;
 - 5) Providing youth with recreation and athletic services, such as recreation centers, sports leagues or athletic contests.
- d) A demonstration of the benefits of the project, including:
 - 1) The targeted youth population the project is intended to benefit.
 - 2) Standards or benchmarks for measuring participant performance upon completion of the project including increased educational competency, entered employment rates, and new business ventures.
 - 3) Monetary benefits of the project, such as additional non-state match contributions, new state or local taxes generated.
- e) Grant request information including:
 - 1) A statement outlining the purposes and activities for which such grant funds will be expended; (e.g., salaries and wages,

DEPARTMENT OF COMMERCE AND COMMUNITY AFFAIRS

NOTICE OF PROPOSED REPEALER

equipment and furnishings, operational costs, professional fees, travel, supplies);

- 2) A project budget, including a description of how the grant-funded activities relate to the project;
- 3) An identification of all financing resources available and how they will be used for various costs associated with the project; and
- 4) The amount of grant funds requested.

Section 2.40 Certification and Project Approval

- a) Upon receipt of application and certification materials, state elected officials shall be notified by letter of any proposed project(s) from the districts which they represent, pursuant to Section 4(d), of the Act. If the community-based organization is certified eligible in accordance with Section 2.20 and demonstrates its ability to meet the project criteria in Section 2.30, its application will be placed in consideration for funding. Projects are competitively ranked according to their ability to maximize the use of funds in providing youths with alternatives to gang participation in one or more of the ways described in Section 2.30(c). The Department will fund those grant applications that directly support projects meeting the criteria of maximum job creation or placement for youth.
- b) Within 45 days of the Department's annual deadline for receipt of a certification and project application, the Department shall notify the applicant by letter whether the certification and application have been approved or disapproved. If an organization is authorized to receive a grant, the Department shall notify the organization of the amount and negotiate a contract for distribution of funds.
- c) Any community-based organization denied certification may appeal by letter within 60 days to a Review Committee composed of agency staff. Appeals will be reevaluated by the criteria specified in Section 2.20.
- d) If the Department disapproves the project application, it shall specify the reasons for this decision and allow 60 days for the applicant to make amendments. The Department shall provide assistance to applicants upon request.
- e) Resubmitted applications shall be approved or denied based upon the same criteria used in the original review. Applicants shall be notified of the final determination within 45 days of the Department's receipt of the revised application.

Section 2.50 Project Administration

- a) The applicant shall comply with the Department's standard grant administrative requirements as specified in 47 Ill. Adm. Code 1.10 through 1.50.
- b) On an annual basis, on or before the anniversary date of its certification, the community-based organization shall furnish a

DEPARTMENT OF COMMERCE AND COMMUNITY AFFAIRS

NOTICE OF PROPOSED REPEALER

statement to the Department on the programmatic/financial status of any approved project and an audited financial statement on the project. The statement shall be on a form as provided by the Department.

DEPARTMENT OF HUMAN SERVICES

NOTICE OF PROPOSED AMENEMENTS

1) Heading of the Part: Provider Requirements, Type Services, and Rates of Payment--

2) Code Citation: 89 Ill. Adm. Code 686

3) Section Numbers:

686.10 Proposed Action:

686.25 Amendment

686.120 Amendment

686.200 Amendment

686.280 Amendment

4) Statutory Authority: Implementing Section 3 of the Disabled Persons Rehabilitation Act [20 ILCS 2405/3].

5) A Complete Description of the Subjects and Issues involved: This rulemaking amends several Sections of this Part to make revisions regarding the titles of forms, the means by which the cost of Criminal Background Checks will be paid, the changing of reviews from annual to as needed, and adding an employment position to the Costs Categories. The major thrust of this amendment is to make it clear the Homemaker agencies must abide by the State statutes covering Health Care Worker's Criminal Background Check Act.

6) Will this proposed rulemaking replace an emergency rulemaking currently in effect? No

7) Does this rulemaking contain an automatic repeal date? No

8) Do these proposed amendments contain incorporations by reference? No

9) Are there any other amendments pending on this Part? Yes

Section Numbers	Proposed Action	Illinois Register Catalog
686.600	Amendment	25 Ill. Reg. 8514 July 13, 2001
686.610	Amendment	25 Ill. Reg. 8514 July 13, 2001
686.620	Amendment	25 Ill. Reg. 8514 July 13, 2001
686.640	Amendment	25 Ill. Reg. 8514 July 13, 2001
686.650	Amendment	25 Ill. Reg. 8514 July 13, 2001
686.700	Amendment	25 Ill. Reg. 8514 July 13, 2001
686.710	Amendment	25 Ill. Reg. 8514 July 13, 2001
686.720	Added	25 Ill. Reg. 8514 July 13, 2001

10) Statement of Statewide Policy Objectives (if applicable): This rulemaking does not create or expand a State mandate.

11) Time, Place, and Manner in which interested persons may comment on this proposed rulemaking: Interested persons may present their comments

DEPARTMENT OF HUMAN SERVICES
NOTICE OF PROPOSED AMENEMENTS

concerning this rulemaking within 45 days after this issue of the Illinois Register. All requests and comments should be submitted in writing to:

Ms. Susan Weir, Bureau Chief
Bureau of Administrative Rules and Procedures
Department of Human Services
100 South Grand Avenue East
3rd Floor, Harris Bldg.
Springfield IL 62762
(217) 785-9772

If because of physical disability you are unable to put comments into writing, you may make them orally to the person listed above.

12) Initial Regulatory Flexibility Analysis:

- A) Types of small businesses, small municipalities and not for profit corporations affected: Those providing Homemaker services to ORS customers.
- B) Reporting, bookkeeping or other procedures required for compliance: Procedures to assure rules and State statutes are followed will need to be developed.

- C) Types of professional skills necessary form compliance: Knowledge of rules and State statutes.

13) Regulatory Agenda on which this rulemaking was summarized: January 2001

The full text of the Proposed Amendments begins on the next page:

DEPARTMENT OF HUMAN SERVICES
NOTICE OF PROPOSED AMENEMENTS

TITLE 89: SOCIAL SERVICES
CHAPTER IV: DEPARTMENT OF HUMAN SERVICES
SUBCHAPTER d: HOME SERVICES PROGRAM

PART 686

PROVIDER REQUIREMENTS, TYPE SERVICES, AND RATES OF PAYMENT

SUBPART A: PERSONAL ASSISTANTS

Section
686.10
686.20
686.25
686.30
686.40

Personal Assistant (PA) Requirements
Services Which May Be Provided by a PA
Criminal Background Check
Annual Review of PA Performance
Payment for PA Services

SUBPART B: ADULT DAY CARE PROVIDERS

Section
686.100
686.110
86.120
86.130
86.140

Adult Day Care (ADC) Provider Requirements
Services Which Must Be Provided by ADC Providers
Compliance Review of ADC Providers
Appeal of Compliance Review for ADC Providers
Payment for ADC Services

SUBPART C: HOMEMAKER SERVICES

Section
686.200
686.210
686.220
686.230
686.240
686.250
686.260
686.270
686.280

Homemaker Service Provider Requirements
Services Which Must Be Provided by Homemaker Agencies
Compliance Review of Homemaker Agencies
Appeal of Compliance Review for Homemaker Agencies
Payment for Homemaker Services
Financial Reporting of Homemaker Services
Unallowable Costs for Homemaker Service
Minimum Direct Service Worker Costs for Homemaker Services
Cost Categories for Homemaker Services

SUBPART D: ELECTRONIC HOME RESPONSE SERVICES

Section
686.300
686.310
686.320
686.330
686.340
686.350

Electronic Home Response Services (EHRs) Provider Requirements
Services Which Must Be Provided by EHRs Providers
Minimum Specifications for EHRs Equipment
Compliance Review of EHRs Providers
Appeal of Compliance Review for EHRs Providers
Rate of Payment for EHRs Services

DEPARTMENT OF HUMAN SERVICES

NOTICE OF PROPOSED AMENEMENTS

SUBPART E: MAINTENANCE HOME HEALTH SERVICE

Section
686.400 Maintenance Home Health Provider Requirements
686.410 Rate of Payment for Maintenance Home Health Services

SUBPART F: HOME DELIVERED MEALS

Section
686.500 Home Delivered Meals Provider Requirements
686.510 Rate of Payment for Home Delivered Meals

SUBPART G: ENVIRONMENTAL MODIFICATION

686.600 Environmental Modification Provider Requirements
686.610 Cost of Environmental Modification
686.620 Permanency of Environmental Modification
686.630 Reason for Denial of Environmental Modification
686.640 Verification of Environmental Modification

SUBPART H: ASSISTIVE EQUIPMENT

Section
686.700 Assistive Equipment Provider Requirements
686.710 Provision of Assistive Equipment
686.720 Verification of Receipt of Assistive Equipment

SUBPART I: RESPITE CARE

Section
686.800 Respite Care Provider Requirements

SUBPART J: CASE MANAGEMENT SERVICES TO PERSONS WITH AIDS

Section
686.900 Program Overview
686.910 Case Management Provider Responsibilities
686.920 Provider Staffing Requirements, Qualifications, and Training
686.930 Monitoring and Liability of Provider
686.940 Provider Compliance Requirements

SUBPART K: CASE MANAGEMENT SERVICES TO PERSONS WITH BRAIN INJURIES

Section
686.1000 Program Overview
686.1010 Case Management Provider Responsibilities
686.1020 Case Manager Staffing Requirements, Qualifications and Training
686.1025 Provisional Case Manager

DEPARTMENT OF HUMAN SERVICES

NOTICE OF PROPOSED AMENEMENTS

686.1030 Monitoring and Liability
686.1040 Provider Compliance Requirements

SUBPART L: BEHAVIORAL SERVICES FOR PERSONS WITH BRAIN INJURIES

Section
686.1100 Behavioral Services Provider Requirements
686.1110 Rate of Payment for Behavioral Services

SUBPART M: DAY HABILITATION SERVICES FOR PERSONS WITH BRAIN INJURIES

Section
686.1200 Day Habilitation Services Provider Requirements
686.1210 Rate of Payment for Day Habilitation Services

SUBPART N: PREVOCATIONAL SERVICES FOR PERSONS WITH BRAIN INJURIES

Section
686.1300 Prevocational Services Provider Requirements
686.1310 Rate of Payment for Prevocational Services

SUBPART O: SUPPORTED EMPLOYMENT SERVICES FOR PERSONS WITH BRAIN INJURIES

Section
686.1400 Supported Employment Service Provider Requirements
686.1410 Rate of Pay for Supported Employment Services

APPENDIX A: Acceptable Human Service Degrees

AUTHORITY: Implementing Section 3 of the Disabled Persons Rehabilitation Act [20 ILCS 2405/3].

SOURCE: Adopted at 19 Ill. Reg. 5104, effective March 21, 1995; amended at 20 Ill. Reg. 12479, effective August 28, 1996; recodified from the Department of Rehabilitation Services to the Department of Human Services at 21 Ill. Reg. 9325; amended at 22 Ill. Reg. 18945, effective October 1, 1998; amended at 22 Ill. Reg. 19262, effective October 1, 1998; amended at 23 Ill. Reg. 499, effective December 22, 1998; amended at 23 Ill. Reg. 6457, effective May 17, 1999; amended at 24 Ill. Reg. 7501, effective May 6, 2000; amended at 24 Ill. Reg. 10212, effective July 1, 2000; amended at 24 Ill. Reg. 18174, effective November 30, 2000; amended at 25 Ill. Reg. 6282, effective May 15, 2001; amended at 26 Ill. Reg. _____, effective _____.

SUBPART A: PERSONAL ASSISTANTS

Section 686.10. Personal Assistant (PA) Requirements

In order to be employed by a customer as a PA (89 Ill. Adm. Code 676.30(q)), an

DEPARTMENT OF HUMAN SERVICES

NOTICE OF PROPOSED AMENDMENTS

individual must:

- a) have a Social Security number and provide DHS with documented verification of this number;
- b) be a minor between 14 and 16 years of age who is not employed during school hours, has an employment certificate and meets all other requirements of the Child Labor Law [820 ILCS 205] and has an adult who is at least 21 years of age and who is legally responsible for the customer who will supervise the PA; be 16 years of age or older, enrolled in school and not employed during school hours; or be 17 years of age or older and not enrolled in school;
- c) have provided to the customer at least two written or verbal recommendations from present or former employers, the recommendation of a Center for Independent Living (CIL), or, if never employed, references from at least two non-relatives;
- d) be able to communicate with the customer to the satisfaction of the customer and counselor;
- e) be able to follow directions to the satisfaction of the customer and counselor;
- f) have previous experience and/or training that is adequate and consistent with the specific tasks required for safe and adequate care of the customer;
- g) if the customer has a contagious infectious disease, have a physician, health care institution (i.e., hospital, nursing home, home health agency), or CIL certify, in writing, that he/she has the knowledge of precautionary procedures for the control of contagious infectious diseases, if it is anticipated that he/she will come into contact with bodily fluids, or be evaluated by a Registered Nurse licensed pursuant to the Illinois Nursing Act of 1987 [225 ILCS 65] to determine that he/she has knowledge of such procedures;
- h) complete an ~~an~~ ~~EMPLOYMENT~~ ~~AGREEMENT~~ ~~between~~ ~~the~~ ~~customer~~ ~~and~~ ~~PA~~ ~~that~~ ~~showing~~ ~~mutual~~ ~~acceptance~~ ~~which~~ ~~certifies~~ ~~the~~ ~~PA~~ ~~488-1947~~ ~~the~~ ~~488-1947~~ ~~is~~ ~~signed~~ ~~by~~ ~~the~~ ~~customer~~ ~~and~~ ~~PA~~ ~~that~~ ~~showing~~ ~~mutual~~ ~~acceptance~~ ~~which~~ ~~certifies~~ ~~the~~ ~~PA~~;
- 1) shall provide services to the individual in accordance with his/her Service Plan (IL 499-1049) (89 Ill. Adm. Code 676.30(u));
- 2) shall submit a ~~bi-monthly~~ ~~monthly~~ calendar listing actual hours worked each pay period (1-15; 16-last working day of the month), as verified by the customer and in accordance with the number of hours authorized by DHS. The PA shall not claim more hours than approved by DHS unless prior approval has been granted by the counselor to address a temporary increased service need;
- 3) shall make available to DHS and other designated agencies those records described in subsection (h)(2)-above;
- 4) shall maintain all customer information as confidential and not for release, either in writing or verbally, to anyone other than those designated by DHS in writing;
- 5) shall not subcontract to any other person, any of the services he/she has agreed to provide;
- 6) shall provide services only while the individual is in his/her

DEPARTMENT OF HUMAN SERVICES

NOTICE OF PROPOSED AMENDMENTS

home or during the period covered by Section 684.60 (Provision of Services);

- 7) shall ~~as a PA providing services to a customer of HSP~~ agree that the customer is responsible for locating, choosing, employing, supervising, training, and disciplining as necessary, the PA. Further, that the State of Illinois does not provide paid vacation, holiday, or sick leave; however, such absences shall be reported to the DHS counselor per the HOME SERVICES TIME SHEET ~~BEFORE THE PA PROVIDES SERVICES~~ (IL 488-2251) only for the purposes of processing payment;
- 8) understands that DHS reports all payments made to a PA to the Illinois Department of Employment Security (DES) and that the PA may apply for unemployment benefits, but DES, not DHS, makes the determination as to whether the PA shall receive benefits;
- 9) understands that he/she may apply for Workers' Compensation benefits through DHS and that some customers may carry such insurance coverage; however, DHS maintains that the customer, not DHS, is the employer for these purposes; and
- 10) understands that DHS will withhold Social Security tax (FICA) from payments made to him/her. Federal and State income tax shall be withheld if the PA completes and returns to DHS two separate W-4 forms;
- i) complete an I-9 Immigration form, which must be retained by the customer;
- j) for PAs starting on or after April 13, 1992, complete a PA STANDARDS (IL 488-2112) to be returned to DHS;
- k) as of April 13, 1992, at the time of redetermination of eligibility of the customer by which he/she is employed, have completed by the customer, a PERSONAL ASSISTANT EVALUATION (IL 488-2089); and
- l) if requested by the customer, give permission and the necessary information for the customer to request a conviction background check from the Illinois State Police. This permission will require the prospective PA to sign the appropriate form provided by the customer.

(Source: Amended at 26 Ill. Reg. _____, effective _____)

Section 686.25 Criminal Background Check

- a) A Home Services Customer may require any PA ~~P-A~~ candidate to submit to a criminal background investigation and to successfully complete a criminal background investigation as a condition of being selected as the PA ~~P-A~~ to that Customer. ~~The cost of the background investigation may be deducted from the amount that the Customer receives through the DHS Home Services Program.~~
- b) In the event that a customer elects to require a ~~PA P-A~~ candidate to submit to a criminal background investigation, the customer ~~Customer~~ shall be obligated only to inform DHS ~~ORS~~ of his/her

DEPARTMENT OF HUMAN SERVICES

DEPARTMENT OF HUMAN SERVICES

NOTICE OF PROPOSED AMENDMENTS

NOTICE OF PROPOSED AMENDMENTS

decision and DHS-ORS will provide the customer Customer an appropriate form that the customer Customer may file with the Illinois State Police to initiate the criminal background investigation. The results of the criminal background investigation will be sent directly to the customer Customer, and the customer Customer shall have no obligation to share the results of the investigation with DHS-ORS. Nothing contained in this Section herein shall restrict a customer Customer from extending a conditional offer of employment to any PA P-A candidate pending the results of the background investigation.

(Source: Amended at 26 Ill. Reg. _____, effective _____)

Section 686.120 Compliance Review of ADC Providers

- a) DHS-ORS shall complete a review of each Adult Day Care (ADC) Provider, at least every two years, to ensure compliance with the criteria set forth in this Subpart.
- b) The annual review shall consist of an on-site review conducted by HSP staff using the Adult Day Care Review form (IL 488-2129). Written notification shall be provided to the ADC Adult-Day-Care Provider prior to the review.
- c) Within 15 days after of the completion of the review, a copy of the completed IL 488-2129, along with a letter stating the results of the review, shall be mailed to the ADC Adult-Day-Care Provider. If the ADC Adult-Day-Care Provider is approved, included with the letter shall be an ADC Adult-Day-Care Provider Rate Agreement for execution by the appropriate provider staff and return to DHS-ORS. If the ADC Adult-Day-Care Provider is not approved, the letter shall contain specific information regarding:

- 1) deficiencies found as a result of the review;
- 2) the action necessary for the ADC Provider to come into compliance;
- 3) the time frames within which the ADC Provider must come into compliance; and
- 4) the information necessary for the ADC Provider to request re-evaluation after the compliance issues are addressed.

(Source: Amended at 26 Ill. Reg. _____, effective _____)

SUBPART C: HOMEMAKER SERVICES

Section 686.200 Homemaker Service Provider Requirements

- a) Only those vendors with approved Homemaker Agreements may be used to provide Homemaker Services to individuals being served through HSP.
- b) In order to be approved by DHS, the Homemaker Agency must comply with

the following, to the satisfaction of DHS:

- 1) provide a comprehensive array of services which include, but are not limited to, those services described in Section 686.210;
- 2) assure DHS that all referrals will be responded to within 48 hours after receipt from DHS;
- 3) have written billing procedures and provide a copy to DHS as part of the compliance review;
- 4) have documented procedures to cover unexpected absences and emergencies to ensure services will be provided in an adequate and safe manner to all individuals served by the agency;
- 5) have written procedures to respond to customer and counselor complaints regarding services;
- 6) maintain comprehensive written job descriptions for, at a minimum, the positions of Executive Director/Administrator, supervisory staff, and direct service providers;
- 7) have established a local presence to ensure regular and on-going contact with DHS and other appropriate community groups;
- 8) have procedures for regular and on-going recruitment of direct service providers through local resources;
- 9) be either incorporated or provide DHS with a copy of a written statement of purpose and function;
- 10) maintain adequate records for planning, budgeting, administration and program evaluation and planning. These records shall be available at all times to DHS and the United States Department of Health and Human Services (HHS), or any entity designated by DHS or HHS, and shall be maintained for a period of at least 5 years, or until advised that all State and federal audits are completed. These records must include, but not be limited to:
 - A) records of all referrals, including the disposition of each referral;
 - B) customer records, which include:
 - i) dates and times services were provided to each individual;
 - ii) dates and times of supervisor-homemaker weekly conferences;
 - iii) semi-annual reports of supervisory visits with each customer served;
 - iv) monthly service reports for each customer served, that which document a summary of services, actual or anticipated changes in the customer's condition, recommended changes in the current HSP Service Plan, and all customer contacts;
 - v) records of all staffings held pertaining to the customer;
 - vi) records of all financial transactions between the customer and any agency employee;

C) administrative records, which include:

- i) cumulative service statistics pertaining to any

DEPARTMENT OF HUMAN SERVICES

NOTICE OF PROPOSED AMENEMENTS

- agreement with DHS;
- ii) billing and payment records which pertain to DHS;
- D) personnel records, which include:
- attendance records;
 - schedules for all direct service staff;
 - documentation regarding each individual's qualification for the position held;
 - wage rate and effective date for each staff member;
 - job performance evaluations for each staff person that which include annual evaluations and at least one probationary evaluation completed within the first six months of employment;
 - orientation and training attendance information for each staff member, which must include the name of each instructor, the date, the time and the title of each training program attended; and
 - verification of liability insurance in the amounts of at least \$15,000 per person bodily injury, \$30,000 minimum per occurrence, and \$10,000 in property damage, per occurrence, if the employee will or could be expected to transport customers in the course of his/her work;
- 11) maintain insurance coverage against any and all liability, loss, damage and/or expense from wrongful or negligent acts of the agency or any of its employees and provide DHS with written verification of such coverage;
- 12) maintain written procedures on reporting loss and damage arising from the wrongful or negligent acts of the agency or any of its employees;
- 13) agree to hold harmless DHS against any and all liability, loss, damage, cost, or expense arising from wrongful or negligent acts of the agency or any of its employees;
- 14) assist DHS in monitoring and evaluating the agency's performance under any agreement with DHS;
- 15) maintain any and all information regarding individuals referred to the agency by DHS as confidential and not for public release without the written consent of DHS and the customer;
- 16) maintain and have available for review by customers and purchasers of services policies governing:
- the nature and scope of each service provided by the agency;
 - a two-way receipt system for any time an employee of the agency handles an individual's money, food stamps or other negotiable items or tender;
 - personnel policies governing salary, leave time, hours of work, employee grievance procedures, and attendance at in and out-service trainings; and
- 17) have in place an Affirmative Action Plan which is approved by its governing body.

DEPARTMENT OF HUMAN SERVICES

NOTICE OF PROPOSED AMENEMENTS

- c) At a minimum, each Homemaker Agency must employ qualified staff in the positions of:
- Executive Director or Administrator for each local unit providing services who is responsible for the administration of the Homemaker Services program and who, at a minimum, has or is making continued progress towards:
 - a Bachelor's degree in health, human services, or a related field;
 - licensure as a Registered Nurse pursuant to the Illinois Nursing and Advanced Practice Nursing Act of 1997 [225 ILCS 65];
 - certification as a home health care administrator, medical clinic administrator, or other health services administrator; or
 - one year of related job experience in social services or in a health agency to replace each year of education required in subsections (c)(1)(A) through (C) above, provided that at least 1 year of experience was in a program that which provides services to individuals with disabilities.
- For the purposes of subsections (c)(1)(A) through (C) above "continued progress" shall mean current registration and evidence of successful completion of course work in an accredited junior college, college, or university for a minimum of 2 semesters or 3 quarters of each academic year. Successful completion shall mean a grade of at least "C" in undergraduate course work or a grade of "B" in graduate course work;
- Supervisors, in a ratio of no less than the equivalent of 1 full-time supervisor to the equivalent of every 20 full-time direct service providers, who is responsible for the supervision of direct service staff and who, at a minimum, has:
 - a Bachelor's degree with course work in social science, home economics, or nursing;
 - knowledge and skill equivalent to completion of a Bachelor's degree, as described in subsection (c)(1)(A) above; or
 - a high school diploma or its equivalent plus health service experience including at least 2 years supervisory experience;
 - direct service providers who have:
 - been determined to be in good health;
 - knowledge and skill equivalent to a high school diploma;
 - experience as a homemaker, either in his/her own home or through employment; and
- D) knowledge of:
- nursing care;
 - first aid;
 - personal and environmental hygiene;
 - household budgeting;
 - housekeeping;

DEPARTMENT OF HUMAN SERVICES

NOTICE OF PROPOSED AMENDMENTS

- vi) nutrition;
vii) food preparation; and
viii) clothing care.
- d) Each supervisor and direct service provider must, at a minimum, participate in the following training programs:
1) Orientation, which shall include:
A) the philosophy and purpose of Homemaker Services; and
B) the functions of Homemaker Services;
2) In-service training, directed at increasing the direct service provider's knowledge and skills, of not less than 12 hours each year in areas including:
A) disability awareness; and
B) Acquired Immunodeficiency Syndrome (AIDS).
- e) The Homemaker Agency shall have written written policy and procedures governing a self-evaluation process to evaluate services and case management with an outcome of written recommendations to the governing body of the agency to improve the services which the agency provides.
- f) The Homemaker agency shall abide by With--the provisions of the following federal and State laws and regulations regarding employment practices and compliance:
1) Title VI of the Civil Rights Act of 1964 (42 USC 8-6-2000d);
2) Section 504 of the Rehabilitation Act of 1973;
3) the Americans with Disabilities Act (42 USC 8-6-12101); and
4) the Illinois Human Rights Act [775 ILCS 5]; and:
5) the Health Care Worker's Background Check Act [225 ILCS 46].
- Further, the agency shall provide DHS with a letter certifying compliance with the provisions of the laws listed in this subsection (f) stated in subsections (f)(1) through (4) above and a copy of the Affirmative Action Plan for the agency.

(Source: Amended at 26 Ill. Reg. _____, effective _____)

Section 686.280 Cost Categories for Homemaker Services

Providers of homemaker service for which a fixed rate is established will provide for cost reporting based on the following categories:

- a) Direct Service Worker costs (costs paid to or on behalf of direct service workers) that may include:
1) wages, time paid on behalf of the worker (i.e., vacation, sick leave, holiday and personal leave);
2) health coverage, life insurance and disability insurance;
3) retirement coverage;
4) FICA;
5) uniforms;
6) worker's compensation;
7) FUTA;
8) travel time and travel reimbursement;

DEPARTMENT OF HUMAN SERVICES

NOTICE OF PROPOSED AMENDMENTS

- 9) unemployment insurance; and
10) other costs approved, in advance, as direct service costs by the Department.
- b) Administrative Costs:
1) personnel:
A) administrator;
B) assistant administrator;
C) accountant/bookkeeper;
D) clerical;
E) other office staff;
F) supervisor of homemakers;
G) other personnel expenses;
2) consultant:
A) auditors;
B) management consultants;
C) management fees from the parent organization;
D) other related consultant costs;
E) other consultant expenses;
3) non-personnel:
A) office supplies; (expense or depreciation based upon company policy);
B) office equipment (expense or depreciation based upon company policy);
C) telephone/telegaph;
D) conferences, conventions, meeting expenses;
E) subscriptions and reference materials;
F) postage and shipping;
G) advertising;
H) outside printing and art work;
I) membership dues;
J) moving and recruiting;
K) other general operating expenses;
L) profit;
4) occupancy:
A) depreciation;
B) amortization of leasehold improvements;
C) rent;
D) property taxes;
E) interest;
F) other related occupancy costs.
- c) Program Support Costs that include all allowable costs not specifically made a part of direct service costs or administrative costs. These may include:
1) training expenses;
2) malpractice insurance;
3) direct service worker supervisor costs.

(Source: Amended at 26 Ill. Reg. _____, effective _____)

DEPARTMENT OF HUMAN SERVICES

NOTICE OF PROPOSED AMENDMENTS

1) Heading of the Part: Triplicate Prescription Control Program

2) Code Citation: 77 Ill. Adm. Code 2080

3) Section Numbers: Proposed Action:

2080.10	Amend
2080.20	Amend
2080.30	Amend
2080.40	Repeal
2080.50	Amend
2080.60	Repeal
2080.70	Amend
2080.80	Repeal
2080.90	Amend
2080.100	Amend
2080.110	Repeal
2080.120	Repeal
2080.130	Amend
2080.140	Repeal
2080.150	Repeal
2080.160	Repeal
2080.170	Repeal
2080.180	Repeal
2080.190	Add

4) Statutory Authority: Implementing and authorized by Sections 302(d) 316, 317, 318, 319 and 320 of Article III of the Illinois Controlled Substances Act [720 ILCS 570/302(d), 316, 317, 318, 319 and 320].

5) A Complete Description of the Subjects and Issues involved: The proposed amendments to 77 Ill. Adm. Code 2080 implement the newly enacted requirements of P.A. 91-0576. Public Act 91-0576 amended the Illinois Controlled Substances Act by changing and removing requirements of the triplicate prescription control program and adding new Sections requiring the Department to establish and maintain an electronic prescription monitoring program.

6) Will this proposed rulemaking replace an emergency rulemaking currently in effect? No

7) Does this rulemaking contain an automatic repeal date? No

8) Does this proposed amendment contain incorporations by reference? Yes

9) Are there any other amendments pending on this Part? No

10) Statement of Statewide Policy Objectives (if applicable): This rulemaking does not create or expand a State mandate.

DEPARTMENT OF HUMAN SERVICES

NOTICE OF PROPOSED AMENDMENTS

11) Time, Place, and Manner in which interested persons may comment on this proposed rulemaking: Interested persons may present their comments concerning this rulemaking within 45 days after this issue of the *Illinois Register*. All requests and comments should be submitted in writing to:

Ms. Susan Weir, Bureau Chief
Bureau of Administrative Rules and Procedures
Department of Human Services
100 South Grand Avenue East
3rd Floor Harris Bldg.
Springfield IL 62762
(217) 785-9772

If because of physical disability you are unable to put comments into writing, you may make them orally to the person listed above.

12) Initial Regulatory Flexibility Analysis:

A) Types of small businesses, small municipalities and not for profit corporations affected: Prescribers and dispensers of Schedule II controlled substances

B) Reporting, bookkeeping or other procedures required for compliance: Prescribers and/or dispensers will be required to maintain and forward to DHS Schedule II prescription information.

C) Types of professional skills necessary form compliance: None

13) Regulatory Agenda on which this rulemaking was summarized: This rulemaking was not included on either of the 2 most recent regulatory agendas because: This amendment was not anticipated at the time of filing the most recent Regulatory Agenda.

The full text of the Proposed Amendments begins on the next page:

DEPARTMENT OF HUMAN SERVICES

NOTICE OF PROPOSED AMENDMENTS

TITLE 77: PUBLIC HEALTH

CHAPTER X: DEPARTMENT OF HUMAN SERVICES

SUBCHAPTER e: CONTROLLED SUBSTANCES ACTIVITIES

PART 2080

ELECTRONIC PRESCRIPTION MONITORING PROGRAMTRIPPLICATE-PRESCRIPTION-CONTROL-PROGRAM

Section	Authority
2080.10	Incorporation by Reference and Definitions
2080.20	General Description
2080.30	Official Triplicate Prescription Blanks (Repealed)
2080.40	Authorized Prescribers
2080.50	Application (Repealed)
2080.60	Schedule II Controlled Substance <u>Official-Triplicate Prescription</u>
2080.70	Requirements
2080.80	Prohibited use of the Official Triplicate Prescription Blank (Repealed)
2080.90	Dispensing <u>Administering--and--dispensing--of a Schedule II Drug</u>
2080.100	<u>Designated-product-by-a-prescriber</u>
2080.110	Dispenser Responsibility <u>Pharmacist-responsibility</u>
2080.120	Partial filling of prescriptions (Repealed)
2080.130	Emergency situations (Repealed)
2080.140	Prescriptions from Out-of-State Prescribers <u>out-of-state-prescribers</u>
2080.150	and <u>Exempt Federal Practitioners practitioners</u>
2080.160	Exemptions for prescribers in hospitals and institutions (Repealed)
2080.170	Exemptions for long term care and home infusion services (Repealed)
2080.180	Exemptions for narcotic treatment programs (Repealed)
2080.190	Exemptions for research (Repealed)
2080.200	Investigatory and regulatory referrals (Repealed)
2080.210	Reports

AUTHORITY: Implementing and authorized by Sections 302(d), 316, 317, 318, 319 and 320 of Article III of the Illinois Controlled Substances Act [720 ILCS 570/302(d), 316, 317, 318, 319 and 320].

SOURCE: Adopted at 10 Ill. Reg. 4497, effective March 3, 1986; amended at 17 Ill. Reg. 11424, effective July 6, 1993; amended at 20 Ill. Reg. 3107, effective February 2, 1996; recodified from the Department of Alcoholism and Substance Abuse to the Department of Human Services at 21 Ill. Reg. 9319; amended at 26 Ill. Reg. _____, effective _____.

Section 2080.10 Authority

This Part is promulgated pursuant to the Illinois Controlled Substances Act (the Act) [720 ILCS 570/100] that which empowers the Department of Human Services to codify the efforts of this State to conform with the regulatory

DEPARTMENT OF HUMAN SERVICES

NOTICE OF PROPOSED AMENDMENTS

systems of the federal government and other states to control the abuse of controlled substances. It relates to the collection of prescription information listed in Schedule II, Section 206 of the Act, or in the federal Schedule II list of drugs at 21 USC 812(b)(2) and (c). promulgate-rules-and-charge-reasonable-fees-relating-to-the control--or--the-dispensing-of-narcotic-drugs-listed-in-Schedule-II-of-the-Act, or-which-are-determined-to-be--designated-products--as-defined-in-Schedule-II-of-the-Act--

(Source: Amended at 26 Ill. Reg. _____, effective _____.)

Section 2080.20 Incorporation by Reference and Definitions

No incorporation by reference in this Part includes any later amendments or editions. The definitions that which apply to this Part are those found in the Act.

"Act" means the Illinois Controlled Substances Act [720 ILCS 570].

"Central Repository" means a place designated by the Department where Schedule II drug data is collected.

"DEA Number" means the United States Drug Enforcement Agency prescriber or dispenser registration number.

"Department" means the Illinois Department of Human Services, or its successor agency.

"Drug-Dependence" means a-state-psyche-and-sometimes-also-physical, resulting--from--interaction--between--a--living--organism--and--a-drug, characterized-by-behavioral-and-other-responses-that-always-include a compulsion-to-take-the-drug-on-a-continuous-or-periodic-basis--in-order to--experience--its--psychic--effects,--and--sometimes--to--avoid--the discomfort--of--its--absence--Tolerance-may-or-may-not-be-present. A person-may-be-dependent-on-more-than-one-drug.

"Electronic Device Transmission" means using a computer system to transmit prescriptions from a prescriber directly to a dispenser pharmacy.

"Exempt-Federal-Practitioners" means those-practitioners--specifically exempted-pursuant-to-21-CPR-1301-(1992).

"Exempt Prescribers in Hospitals and Institutions" means prescribers in hospitals or institutions licensed under the Hospital Licensing Act [210 ILCS 85] who authorize the administration or dispensing of Schedule II drugs designated-products within the hospital or

ILLINOIS REGISTER 13868 01
DEPARTMENT OF HUMAN SERVICES
NOTICE OF PROPOSED AMENDMENTS

institution.

"Facsimile Equipment" means any device which is capable of sending or receiving facsimile of documents through connection with a telecommunications network.

"Hospice" means a coordinated program of home and inpatient care providing, directly or through agreement, palliative and supportive medical, health and other services to terminally ill patients and their families that is certified by Medicare under Title XVIII of the Social Security Act or licensed by the State.

"Illinois Controlled Substances License Number" means the State license authorization number issued by the Department of Professional Regulation permitting prescribers to possess, prescribe or dispense, and permitting dispensers to possess and dispense, controlled substances in Illinois pursuant to the Controlled Substances Act (see 77 Ill. Adm. Code 3100.1650-70).

"Long Term Care Facility (LTCF)" means a facility licensed by the Department of Public Health as a skilled nursing facility, intermediate care facility, or long term care facility for residents under 22 years of age.

"National Drug Code (NDC) Identification Number" means the number used to provide uniform product identification for all substances recognized as drugs in the United States Pharmacopoeia National Formulary (US Pharmacopoeial Convention, Rockville, Maryland 20852) and the Homeopathic Pharmacopoeia of the United States, Eighth Edition, Volume 1 (Homeopathic Pharmacopoeia Convention of the United States, P.O. Box 2221, Southeast, Pennsylvania 19399-2221 (1979)).

"Official Triplicate Prescription--Blank" means the official prescription-blanks for the triplicate prescription program supplied to prescribers by the Department for prescribing Schedule II designated product controlled substances.

"Out-of-State state Prescribers" means those prescribers having a valid Drug Enforcement Administration Registration to prescribe Schedule II drugs controlled substances pursuant to 21 CFR 1301.192 and who are also licensed to prescribe Schedule II drugs designated products in the states where they maintain a professional license to practice.

"Pharmacy Inventory Control Form" means the official form used by the Department for the purpose of obtaining uniform reports from Illinois pharmacies related to the dispensing of Schedule II controlled

substance-prescription-drugs-pursuant-to-the-written-order-of-an out-of-state-or-exempt-Federal-prescriber.

"Prescribed" means ordered as treatment by a prescriber either verbally, electronically or in writing.

"Schedule II Drug Designated Product" means any narcotic drug listed as a federal Schedule II drug (21 USC 812(b)(2) and (c)) or amphetamine, phenmetrazine, methamphetamine, glutethimide, or pentazocine product listed as an in Illinois Schedule II drug by statute [720 ILCS 570/206] or rule, and also means any controlled substance listed in Schedule II which is determined and designated by the Department to be such a product under Section 102(n) of the Act.

(Source: Amended at 26 Ill. Reg. _____, effective _____)

Section 2080.30 General Description

The Electronic Prescription Monitoring Program monitors all prescriptions for Schedule II drugs that are dispensed, except for hospital inpatients and drug abuse treatment programs licensed by the Department within the State of Illinois. Each time a Schedule II controlled substance is dispensed, the dispenser must transmit specific information to a central repository designated by the Department. The Triplicate Prescription Control Program monitors the prescribing or dispensing of all Schedule II designated products within the State of Illinois. The Program also monitors the dispensing of Schedule II controlled substances by Illinois pharmacists pursuant to a written order by prescribers pursuant to Sections 2080.130 and 2080.140 of this Part. The program supplies official triplicate prescription-blanks to prescribers and pharmacy inventory control forms to pharmacies for Schedule II products issued by out-of-state or exempt Federal prescribers for the purpose of collecting, compiling, and analyzing the information recorded on those forms. The data produced from this system provides an information resource to those agencies in the State that monitor, regulate, and enforce the provisions of the Illinois Controlled Substances Act.

(Source: Amended at 26 Ill. Reg. _____, effective _____)

Section 2080.40 Official Triplicate Prescription Blanks (Repealed)

- Official triplicate prescription-blanks shall be supplied in serially numbered groups of 100-blanks each in triplicate and furnished to prescribers at a charge of \$10.00 per 100-blanks.
- Official triplicate prescription-blanks shall expire two (2) years after the last day of the month in which they were supplied. An expiration date shall be pre-printed on each official triplicate

DEPARTMENT OF HUMAN SERVICES

NOTICE OF PROPOSED AMENDMENTS

Prescription-Blank-

- c) Official Tripartite-Prescription-Blanks-shall-be-imprinted-with-the prescriber's name, address, and Illinois-Controlled-Substances-Bicentennial number.
- d) Official Tripartite-Prescription-Blanks-shall-not-be-transferable.

(Source: Repealed at 26 Ill. Reg. _____, effective _____)

Section 2080.50 Authorized Prescribers

Every prescriber who issues a prescription for a Schedule II drug shall issue such prescription on an official tripartite prescription. A prescription for a Schedule II drug designated product shall be issued only by a prescriber who:

- Possesses a valid professional license by the Illinois Department of Professional Regulation (DPR) as a physician licensed to practice medicine in all of its branches, dentist, podiatrist, or veterinarian or other licensed prescriber of another state or jurisdiction; and
- Is licensed authorized to prescribe controlled substances by the State of Illinois or any state in accordance with 77 Ill. Adm. Code 1650.370; and
- May be registered by the United States Drug Enforcement Administration (DEA) to prescribe Schedule II controlled substances in accordance with 21 CFR 1301.1992.

(Source: Amended at 26 Ill. Reg. _____, effective _____)

Section 2080.60 Application (Repealed)

A prescriber shall obtain an application for official tripartite prescription. The request for an application may be made in writing or by telephone to the Department offices in Chicago or Springfield. The Department shall make available application forms to prescribers upon request. The completed application shall be returned to the Department with a non-refundable check or money order in the amount \$10.00 payable to the Department of Human Services.

- The Department shall supply 100 official tripartite prescriptions. Blanks within 30 days of receipt of the application unless one or more of the following situation exists:

- The prescriber has an expired, suspended, or revoked professional license pursuant to 225 ILCS 25/337-60/237-100/247-or-115/25 issued by the Department of Professional Regulation.
- The prescriber has an expired, suspended, or revoked license disciplined out of state professional license.
- The prescriber has a limited, expired, suspended, or revoked Illinois-Controlled-Substances-Bicentennial number pursuant to 225 ILCS 25/337-60/237-100/247-or-115/25 issued by DPR.

DEPARTMENT OF HUMAN SERVICES

NOTICE OF PROPOSED AMENDMENTS

- The prescriber has an expired, suspended, or revoked Drug Enforcement Administration Registration.
- The check or money order sent by the prescriber is for an incorrect amount, made payable to an incorrect payee, unsigned, or uncollectable for any reason.
- The name provided by the prescriber does not match that appearing on the Illinois-Controlled-Substances-Bicentennial-BEA Registration.
- The application form does not bear the signature of the prescriber.
- The prescriber has not provided all the information required for application by the Department.
- When the Department has determined that the prescriber possesses a valid Illinois or out of state professional license, a State-Controlled-Substances-Bicentennial-BEA Registration, applications which are incomplete in any manner shall be returned to the prescriber with a letter explaining any deficiencies encountered in processing. The prescriber may then resubmit the application in conformance with Departmental requirements.
- When the Department has determined that the prescriber does not possess a valid professional license, a state-controlled substance license, or BEA Registration, or upon notification by DPR or verification received by other jurisdictions that the authority to prescribe has been denied or disciplined pursuant to 225 ILCS 25/337-60/237-100/247-or-115/25-(1992), the Department shall deny the application and so notify the applicant in writing. The Department shall refer the above information to the appropriate State or Federal law enforcement or regulatory agency.

(Source: Repealed at 26 Ill. Reg. _____, effective _____)

Section 2080.70 Schedule II Controlled Substance Official Tripartite Prescription Requirements

- A dispenser pharmacist may fill a prescription for a Schedule II drug designated product only upon receipt of a written prescription unless otherwise specifically exempted or allowed by federal or State law. completed official tripartite prescription-Blank pursuant to Section 2080.70(b). The original and the State copy of the official tripartite prescription-Blank shall be delivered to the pharmacist filling the prescription. Where both the original and State copy are not presented to the pharmacist and the pharmacist determines that an emergency situation exists pursuant to Section 2080.120, the pharmacist shall verify the prescription order with the prescriber. Upon verification the pharmacist shall fill the order following the procedures outlined under Section 2080.120.

- A written prescription for a Schedule II controlled substance An

DEPARTMENT OF HUMAN SERVICES

NOTICE OF PROPOSED AMENDMENTS

Official-Triplicate-Prescription-Blank shall:

- 1) Be dated as of and signed on the day when issued; and
- 2) Bear the full name and address of the patient, or in the case of veterinary treatment, the full name and address of the animal owner, as well as the species or common name of the animal being treated; and
- 3) Bear the full name and address of the prescriber; and
- 4) Bear the DEA Registration number of the prescriber; and
- 5) Be signed by the prescriber in the same manner as the prescriber would sign a check or legal document; and
- 6) Be written in ink with a pen, typewriter or computer printer or with any indelible pencil; or typewriter; and
- 7) Specify the drug name, strength, and dosage and form; and
- 8) Specify the quantity of drug to be dispensed, both written and numeric; and
- 9) Indicate whether drug-product-selection-is-permitted-pursuant-to 410-IHCS-620/2-22-and-620/3-14-1992; and
- 9) Not be filled more than seven days after the date of issue Be issued prior to the expiration date preprinted on the form; and
- 10) Contain only one Schedule II drug prescription order per prescription blank.

- c) In the event that a pharmacist receives an Official-Triplicate Prescription-Blank written for a non-designated-product-prescription drug-all-those-Schedule-II-controlled-substances-not-enumerated-under the-definition-of-Schedule-II-designated-products-the-pharmacist shall-mark-the-State-copy-void-and-shall-submit-it-to-the-Department by-the-15th-day-of-the-month-following-the-month-in-which-it-was filed-the-pharmacist-shall-file-the-original-copy-of-this prescription-in-the-non-designated-product-prescription-file-
- d) In the event that a pharmacist receives an Official-Triplicate Prescription-Blank on which the preprinted expiration date has passed the pharmacist shall mark both copies expired-not-filled-and-shall submit both copies to the Department-the-pharmacist shall-notify the prescriber that this Official-Triplicate-Prescription-Blank-is-invalid and shall make arrangements for the issuance of a valid-Official-Triplicate-Prescription-Blank-in-the-event-that-the-pharmacist-is unable-to-contact-the-prescriber-the-pharmacist-shall-determine whether-to-dispense-the-Schedule-II-designated-product-in-accordance with-Section-102(n)-of-the-Act-

(Source: Amended at 26 Ill. Reg. _____, effective _____)

Section 2080.80 Prohibited use of the Official Triplicate Prescription Blank (Repealed)

- a) An-Official-Triplicate-Prescription-Blank-shall-not-be-issued-by-a prescriber-for-the-purpose-of-obtaining-Schedule-II-designated

DEPARTMENT OF HUMAN SERVICES

NOTICE OF PROPOSED AMENDMENTS

products-for-general-dispensing-to-patients-prescribers-may-obtain Schedule-II-designated-products-for-general-dispensing-to-patients-by using-the-BDA's-222-Narcotic-Order-Form-pursuant-to-21-ER-1305 (1992);

- b) A-prescription-shall-not-be-issued-for-the-dispensing-of-a-designated product-to-a-drug-dependent-person-for-maintaining-that-person's dependence-to-such-drugs-except-in-the-course-of-conducting-an authorized-clinical-investigation-in-the-development-of-a-narcotic treatment-program-as-set-forth-in-77-Il-Adm-Code-2080.150.

(Source: Repealed at 26 Ill. Reg. _____, effective _____)

Section 2080.90 Administering and Dispensing dispensing of a Schedule II Drug designated-product-by-a-prescriber

a) A prescriber who administers a Schedule II drug designated-product in the course of the prescriber's professional practice subject to the Act may do so without issuing a written prescription an-Official-Triplicate-Prescription Blank for that drug.

- b) A-prescriber-who-dispenses-a-Schedule-II-designated-product-directly to-a-patient-in-the-course-of-the-prescriber's-professional-practice subject-to-the-Act-must-issue-an-Official-Triplicate-Prescription Blank-indicating-by-checking-the-appropriate-box-on-the-Official-Triplicate-Prescription-Blank-that-such-Schedule-II-designated-product was-directly-dispensed-to-the-patient;

1) Where-the-prescriber-directly-dispenses-a-Schedule-II-designated product-the-prescriber-shall-provide-the-National-Drug-Code product-identification-number-of-the-face-of-the-Official-Triplicate-Prescription-Blank;

2) Where-the-prescriber-compounds-and-directly-dispenses-a prescription-which-contains-two-(2)-or-more-Schedule-II designated-products-the-prescriber-shall-write-out-or-line-out the-National-Drug-Code-boxes-found-on-the-face-of-the-Official-Triplicate-Prescription-Blank-and-shall-provide-the-National-Drug Code-product-identification-number-for-each-Schedule-II designated-product-ingredient-on-the-reverse-side-of-the-State Copy-along-with-the-dosage-form-and-quantity-of-each-Schedule-II-designated-product-dispensed;

3) The-prescriber-shall-return-the-copy-designated-State-Copy-to the-Department's-Springfield-office-by-the-15th-day-of-the-month following-the-month-in-which-the-medication-was-dispensed;

4) The-prescriber-shall-retain-the-original-of-the-Official-Triplicate-Prescription-Blank-when-dispensing-pursuant-to-this Section-for-a-period-of-two-(2)-years-in-chronological-order-of issue-separate-from-Official-Triplicate-Prescription-Blanks issued-to-patients-for-filling-at-pharmacies.

DEPARTMENT OF HUMAN SERVICES
NOTICE OF PROPOSED AMENDMENTS

partial-filling---Where-the-full-quantity-prescribed-cannot-be supplied-within-72-hours-the-pharmacist-shall-notify-the-prescriber that-no-further-quantity-may-be-supplied-without-a-new-official triPLICATE-Prescription-Blank.
b) In-patient-care-facility

- 1) A-prescription-for-a-Schedule-II-designated-product-written-for patients-in-hospices-or-similar-facilities-or-long-term-care facilities-(BEP)-licensed-by-the-Department-of-Public-Health-or for-a-patient-with-a-medical-diagnosis-documenting-a-terminal illness-may-be-dispensed-in-partial-quantities-to-include individual-dosage-units-if-there-is-any-question-whether-a patient-may-be-classified-as-having-a-terminal-illness-the pharmacist-must-contact-the-practitioner-prior-to-partially filling-the-prescription.---Both-the-pharmacist-and-the practitioner-have-a-corresponding-responsibility-to-assure-that the-controlled-substance-is-for-a-terminally-ill-patient.---The pharmacist-must-record-on-the-prescription-whether-the-patient-is "terminally-ill" or a "BEP patient".---A-prescription-that-is partially-filled-and-does-not-contain-the-notation-terminally ill-or-a-BEP-patient-shall-be-deemed-to-have-been-filled-in violation-of-the-Act.---For-each-partial-filling-the-dispensing pharmacist-shall-record-on-the-back-of-the-prescription-for-on another-appropriate-record-uniformly-maintained-and-readily retrievable---the-date---of-the-partial-filling---quantity dispensed---remaining-quantity-authorized-to-be-dispensed---and-the identification-of-the-dispensing-pharmacist---prior-to---a subsequent-partial-filling-the-pharmacist-is-to-determine-that the-additional-partial-filling-is-necessary.---The-total-quantity of-Schedule-II-designated-product-dispensed-in-all-partial fillings-shall-not-exceed-the-total-quantity---prescribed-Schedule-II-designated-product-prescriptions-for-patients-in-a BEP-hospices-or-similar-facilities-licensed-by-the-Department of-Public-Health-or-patients-with-a-medical-diagnosis-documenting a-terminal-illness-shall-be-valid-for-a-period-of-time-not-to exceed-60-days-from-the-issue-date-unless-sooner-terminated-by the-discontinuance-of-medication.

- 2) Information-pertaining-to-current-Schedule-II-prescriptions-for patients-in-a-BEP-or-for-patients-with-a-medical-diagnosis documenting---a---terminal---illness---may-be-maintained-in-a computerized-system-if-this-system-has-the-capability-to-permit:
A) Output-(display-or-printout)-of---the-original-prescription number---date---of---issue---identification-of---prescribing individual-practitioner-identification-of-patient---address of---the-BEP-or-address-of-the-hospital-or-residence-of-the patient-identification-of-medication-authorized-to-include dosage-form-strength-and-quantity---listing-of-the-partial fillings-that-have-been-dispensed-under-each-prescription and-the-information-as-set-forth-above.

DEPARTMENT OF HUMAN SERVICES
NOTICE OF PROPOSED AMENDMENTS

(Source: Amended at 26 Ill. Reg. _____, effective _____)

Section 2080.100 Dispenser Responsibility Pharmacist-responsibility

Each time a Schedule II controlled substance is dispensed, the dispenser must transmit, not more than 15 days after dispensing, to the central repository the pharmacist-shall-provide the following information on-the-Official-Triplicate Prescription-Blank:

- a) Dispenser DEA number Name-of-pharmacy.
b) Recipient's (or animal owner's) name and address Address-of-pharmacy.
c) If recipient is an animal, the species Documentation---of identification.
1) General
Documentation-of-some-form-of-identification-of-the-person presenting-the-prescription-(e.g.-driver's-license,-a-current credit-card,-or-an-official-student-identification-card).---Where the-presenter-has-no-identification-card,-the-pharmacist-shall contact-the-prescriber-to-verify-the-prescription's-authenticity.
2) In-patient-care
In-the-event-that-a-pharmacy-services-a-nursing-home-or-hospice licensed-by-the-Illinois-Department-of-Public-Health,-the pharmacist-is-not-required-to-record-the-identification-of-a patient,-but-is-only-required-to-identify-the-type-of-facility pursuant-to-77-III-Adm.-Code--280--and--300,-in-the-presenter identification-box-provided:
d) National drug code (NDC) identification number of the Schedule II product dispensed Pharmacy---Drug---Enforcement---Administration Registration-number.
e) Quantity of the Schedule II product dispensed National-Drug-Code Product-identification-number.
f) Date prescription filled.
g) Date prescription written Illinois-pharmacist-license-number.
h) Prescriber DEA number The-pharmacist-who-fills-the-Official-Triplicate Prescription-Blank-must-sign-the-prescription-blank-in-the-space provided.

(Source: Amended at 26 Ill. Reg. _____, effective _____)

Section 2080.110 Partial filling of prescriptions (Repealed)

- a) General
When-the-pharmacist-can-only-partially-fill-a-prescription,-the pharmacist-shall-annotate-the-Official-Triplicate-Prescription-Blank or-written-record-of-emergency-prescription-with-the-total-quantity-of the-Schedule-II-designated-product-dispensed,-the-remaining-quantity of-the-prescription-shall-be-filled-within-72-hours-of-the-first

DEPARTMENT OF HUMAN SERVICES

NOTICE OF PROPOSED AMENDMENTS

B) Immediate--updating--of--the--prescription--record--each--time--a partial--filling--of--the--prescription--is--conducted.

C) Retrieval--of--partially--filled--Schedule--II--prescription information--is--the--same--as--required--by--Section--1306-22(b)(4) and--(5) of--the--federal--regulation--regarding--"prescriptions" 21-CFR-1306-(1995)--for--Schedule--II--and--IV--prescription refill--information.

3) Where--a--Schedule--II--designated--product--has--been--discontinued prior--to--the--dispensing--of--the--full--amount--of--the--prescription the--pharmacist--shall--indicate--the--actual--amount--of--medication dispensed--on--the--face--of--the--Official--Triplicate--Prescription Blank.

4) Submission--of--Official--Triplicate--Prescription--Blank

A) When--the--in-patient--care--facility--pharmacy--has--dispensed--the total--amount--of--a--Schedule--II--designated--product--prescribed the--pharmacist--shall--submit--the--State--copy--of--the--Official Triplicate--Prescription--Blank--to--the--Department's Springfield--office--by--the--15th--day--of--the--month--following the--month--in--which--the--total--amount--was--dispensed.

B) When--the--pharmacist--determines--that--the--prescription--can only--be--filled--on--a--partial--basis--to--prevent--patient--death the--prescriber--discontinues--medication--order--etc.--the--pharmacist--shall--annotate--the--prescription--with--the--total quantity--of--the--Schedule--II--designated--product--dispensed--and submit--the--blank--to--the--Department's--Springfield--office--by the--15th--day--of--the--following--month.

(Source: Repealed at 26 Ill. Reg. _____, effective _____)

Section 2080.120 Emergency situations (Repealed)

No person shall issue a prescription for a Schedule II designated product other than on the Official Triplicate Prescription Blank issued by the Department and no pharmacist shall fill any such prescription other than on the Official Triplicate Prescription Blank issued by the Department. However, in the case of an emergency, epidemic or a sudden or unforeseen accident or calamity, the prescriber may issue a lawful oral prescription or transmit via facsimile equipment or via electronic transmission a written prescription order or a Blank issued by the Department where failure to issue such a prescription might result in loss of life or intense suffering.

A) Such prescription shall have endorsed thereon by the prescriber a statement concerning the accident, or calamity, or circumstances constituting the emergency, or the cause for which the unofficial blank was used.

B) Within 72 hours after issuing an emergency prescription, the prescriber shall cause a written prescription on the official

DEPARTMENT OF HUMAN SERVICES

NOTICE OF PROPOSED AMENDMENTS

Triplicate Prescription Blank for the emergency quantity prescribed to be delivered to the dispensing pharmacist. The prescription shall have written on its face "Authorization for Emergency Dispensing", and the date of the emergency prescription. The written prescription on the Official Triplicate Prescription Blank may be delivered to the pharmacist in person or by mail, but if delivered by mail it must be postmarked within the 72-hour period.

C) Upon receipt, the dispensing pharmacist shall attach the Official Triplicate Prescription Blank to the emergency prescription earlier received or in the case of an oral prescription, the document on which it was reduced to writing.

D) The dispensing pharmacist shall notify the Department if the prescriber fails to deliver the authorization for emergency dispensing on the Official Triplicate Prescription Blank. Failure of the dispensing pharmacist to do so shall void the authority to dispense without a written prescription on an Official Triplicate Prescription Blank of a prescriber.

E) The Department shall immediately upon discovery notify PPR in writing of any violations of this Section by prescribers or pharmacists.

(Source: Repealed at 26 Ill. Reg. _____, effective _____)

Section 2080.130 Prescriptions from Out-of-State Prescribers out-of-state prescribers and Exempt Federal Practitioners practitioners

A) Out-of-State prescribers or exempt Federal practitioners shall prescribe Schedule II products by using a conventional prescription form.

B) After dispensing a Schedule II drug designated product from a conventional prescription form written by an out-of-state prescriber or exempt Federal practitioner, the dispenser pharmacist shall transmit the prescription information to the central repository not more than 15 days after the date on which the Schedule II drug was dispensed. Complete a Pharmacy Inventory Control form. Such form shall be returned to the Department's Springfield Office by the 15th day of the month following the month in which the prescription was filled.

(Source: Amended at 26 Ill. Reg. _____, effective _____)

Section 2080.140 Exemption for prescribers in hospitals and institutions (Repealed)

A) Prescribers in hospitals or institutions licensed under the Hospital Licensing Act (Ill. Rev. Stat. 1991, ch. 111-1/2, par. 142 et seq.) (210-10CS-05/1-1 et seq. 1992) who administer Schedule II designated

DEPARTMENT OF HUMAN SERVICES

NOTICE OF PROPOSED AMENDMENTS

products--are--exempt--from--the--requirements--of--Sections--300--and--312--of the Act--Such--prescribers--shall--record--in--the--patient's--medical--record the name--of--the--Schedule--II--designated--product--administered--the quantity--and--the--date--and--signature--of--the--prescriber.

- b) An--order--for--an--outpatient--prescription--for--a--Schedule--II--designated product--shall--be--written--on--the--Official--Triplicate--Prescription Blank.

(Source: Repealed at 26 Ill. Reg. _____, effective _____)

Section 2080.150 Exemptions for long term care and home infusion services (Repealed)

- a) Controlled--substances--that--can--lawfully--be--administered--or--dispensed directly--to--a--patient--in--a--long--term--care--facility--licensed--by--the Department--of--Public--Health--as--a--skilled--nursing--facility, intermediate--care--facility, or a long-term--care--facility--for--residents under--22--years--of--age--are--exempt--from--the--requirements--of--Sections--300 and--312--of--the--Act, except--that--a--prescription--for--a--Schedule--II controlled--substance--must--be--either--a--written--prescription--signed--by the prescriber--or--a--written--prescription--transmitted--by--the--prescriber or--prescriber's--agent--to--the--dispensing--pharmacy--by--facsimile--The facsimile--serves--as--the--original--written--prescription--and--must--be maintained--for--2--years--from--the--date--of--issue--in--the--same--manner--as--a written--prescription--signed--by--the--prescriber.

- b) A--prescription--that--is--written--for--a--Schedule--II--controlled--substance to--be--compounded--for--direct--administration--by--parenteral, intravenous, intramuscular, subcutaneous, or intraspinal infusion--to--a--patient--in--a private--residence, long-term--care--facility, or hospice--setting--may--be transmitted--by--facsimile--by--the--prescriber--or--the--prescriber's--agent to--the--pharmacy--providing--the--home--infusion--services.

(Source: Repealed at 26 Ill. Reg. _____, effective _____)

Section 2080.160 Exemptions for narcotic treatment programs (Repealed)

Use--of--the--Official--Triplicate--Prescription--Blank--is--not--required--in--narcotic treatment--programs--The--official--"prescription--logs"--issued--by--the--Department shall--be--completed--in--accordance--with--Section--313--of--the--Act.

(Source: Repealed at 26 Ill. Reg. _____, effective _____)

Section 2080.170 Exemptions for research (Repealed)

Prescribers--who--are--authorized--by--the--Department--pursuant--to--the--Act--to--use

DEPARTMENT OF HUMAN SERVICES

NOTICE OF PROPOSED AMENDMENTS

Schedule--II--designated--products--to--carry--out--research--are--exempt--from--the requirements--of--Section--500--of--the--Act--Such--prescribers--shall--maintain--an inventory--record--specifying:

- a) Drug--name;
b) Drug--strength;
c) Drug--quantity;
d) Purpose--for--which--administered;
e) To--whom--administered--(if--applicable);
f) Date(s)--on--which--Schedule--II--designated--product--was--used.

(Source: Repealed at 26 Ill. Reg. _____, effective _____)

Section 2080.180 Investigatory and regulatory referrals (Repealed)

The--Department's--Triplicate--Prescription--Control--Section--shall--make investigatory--or--regulatory--referrals--to--Federal, State--and--local--law enforcement--and--regulatory--agencies--based--on--information--collected--from--the processing--of--the--Official--Triplicate--Prescription--Blanks--All--referrals--shall be--based--on--the--nature--of--the--information--and--the--jurisdictional--area--for--which the--information--is--appropriate--Investigatory--or--regulatory--referrals--shall include--but--shall--not--be--limited--to--the--following--criteria:

- a) A--prescriber--attempts--to--obtain--Official--Triplicate--Prescription Blanks--with--an--expired, suspended, or otherwise--disciplined professional--license--This--applies--to--professional--licenses--issued--in this--or--any--other--state;
b) A--prescriber--attempts--to--obtain--Official--Triplicate--Prescription Blanks--with--an--expired, suspended, or revoked--controlled--substances registration--This--applies--to--registrations--issued--by--this--State, or other--state, or--the--DEA;
c) A--prescriber--with--an--expired, suspended, or revoked--or--otherwise disciplined--professional--license--prescribes--or--dispenses--a--Schedule--II designated--product--using--the--Official--Triplicate--Prescription--Blank; this--applies--to--professional--licenses--issued--in--this--or--any--other--state;
d) A--prescriber--with--an--expired, suspended, or revoked--controlled substances--registration--prescribes--or--dispenses--a--Schedule--II designated--product--using--the--Official--Triplicate--Prescription--Blank; This--applies--to--registrations--issued--by--this--or--any--other--state--or--the U.S. Drug--Enforcement--Administration;
e) An--out-of-state--prescriber--with--an--expired, suspended, revoked--or otherwise--disciplined--professional--license--prescribes--a--Schedule--II product;
f) An--out-of-state--prescriber--with--an--expired, suspended--or--revoked controlled--substances--registration--prescribes--for--a--Schedule--II product--This--applies--to--a--registration--issued--in--the--prescriber's resident--state--or--a--registration--issued--by--DEA;
g) A--pharmacy--with--an--expired, suspended--or--revoked--Illinois--Controlled

DEPARTMENT OF HUMAN SERVICES
NOTICE OF PROPOSED AMENDMENTS

- Substances-License--or--BEA--registration--disbenses--a--Schedule--II designated-product;
- h) A--pharmacist--with--an--expired--suspended--revoked--or--otherwise disciplined--professional--license--disbenses--a--Schedule--II--designated product--This--applies--to--a--professional--license--issued--in--this--or--any other--State;
- i) A--pharmacy--disbenses--a--Schedule--II--designated--product--to--a--patient beyond--the--72--hour--limit--three--or--more--times--in--any--12--month--period;
- j) A--pharmacy--is--late--returning--Official--triplicate--prescriptions--Blanks or--Pharmacy--Inventory--Control--forms--to--the--Department--three--or--more times--during--any--12--month--period;
- k) A--prescriber--uses--an--Official--triplicate--Prescription--Blank--instead--of a--Drug--Enforcement--Administration--22--Narcotic--Order--Form--to--obtain office--medication--stock;
- l) A--prescriber--or--a--pharmacist--disbenses--a--Schedule--II--controlled substance--to--a--patient;
- m) A--prescriber--knowingly--fails--to--report--lost--or--stolen--Official triplicate--Prescription--Blanks;
- n) A--prescriber--maintains--a--drug--dependent--person--without--proper authorization--pursuant--to--Section--312(h)--of--the--Act;
- o) A--pharmacist--refills--any--Schedule--II--prescription;
- p) It--is--determined--that--on--three--or--more--occasions--in--any--12--month period--a--prescriber--has--prescribed--using--Official--triplicate Prescription--Blanks--issued--to--others;
- q) A--prescriber--fails--to--provide--an--Official--triplicate--Prescription Blank--to--a--pharmacy--within--72--hours--after--issuing--an--emergency--order for--a--Schedule--II--designated--product;
- r) A--prescriber--issues--prescriptions--on--expired--Official--triplicate Prescription--Blanks--three--or--more--times--during--any--12--month--period;
- s) A--pharmacist--fills--prescriptions--for--Schedule--II--designated--products that--have--been--issued--on--expired--Official--triplicate--Blanks--three--or more--times--in--any--12--month--period;
- t) A--pharmacist--fails--to--provide--the--Department--with--a--Pharmacy--Inventory Control--form--for--a--Schedule--II--product--that--was--dispensed--pursuant--to an--order--of--an--out--of--state--prescriber--or--exempt--Federal--practitioner;
- u) A--prescriber--makes--payment--for--Official--triplicate--Prescription--Blanks with--a--check--or--money--order--that--is--uncollectable;
- v) A--pharmacist--makes--payment--for--Pharmacy--Inventory--Control--forms--with--a check--or--money--order--that--is--uncollectable;
- w) A--prescriber--reports--more--than--one--theft--per--year--of--Official triplicate--Prescription--Blanks;
- x) The--triplicate--Prescription--Control--Section--detects--an--irregularity--or violation--in--processing--an--Official--triplicate--Blank--(e.g.,--stolen, forged--or--altered--prescription);
- y) The--triplicate--Prescription--Control--Section--determines--that--a--Schedule II--designated--product--prescription--does--not--exhibit--the--principles--of "good--faith"--in--prescribing--or--dispensing--as--set--forth--in--Section 102(n)--of--the--Act;

DEPARTMENT OF HUMAN SERVICES
NOTICE OF PROPOSED AMENDMENTS

(Source: Repealed at 26 Ill. Reg. _____, effective _____)

Section 2080.190 Reports

Other than technical, error and administrative function reports needed to determine that the records are received and maintained in good order, any other reports concerning the information received from dispensers shall only be prepared at the direction of the Manager, Bureau of Pharmacy and Clinical Support Services, or successor administrator who meets the statutory requirements [720 ILCS 570/318(g)], in response to official inquiries from officers of the court. Sample trend analysis reports may be prepared extemporaneously by prescription monitoring program staff. The disposition of all extemporaneous reports shall be at the discretion of the licensed, professional administrator of the prescription monitoring program.

(Source: Added at 26 Ill. Reg. _____, effective _____)

DEPARTMENT OF INSURANCE

NOTICE OF PROPOSED AMENDMENTS

- 1) Heading of Part: Accident and Health Reserves
- 2) Code Citation: 50 Ill. Adm. Code 2004
- 3) Section Numbers: Proposed Action:
 2004.10 Amendment
 2004.20 Amendment
 2004.30 Amendment
- 4) Statutory Authority: Implementing Section 353(a) and authorized by Section 401 of the Illinois Insurance Code [215 ILCS 5/353(a) and 401].
- 5) Complete Description of the Subjects and Issues Involved: This rule is being amended for two reasons. The current Rule has not been revised for years and is outmoded. Second, the adoption of the NAIC Statutory Accounting Practices and Procedures Manual (Manual) incorporated the NAIC Model Law for Minimum Reserve Standards for Individual and Group Health Insurance (Model Law). The Manual is revised yearly and automatically adopts any changes to the Model Law.
- 6) Will this proposed amendment replace an emergency rule currently in effect? No
- 7) Does this amendment contain an automatic repeal date? No
- 8) Does this proposed amendment contain incorporations by reference? Yes.
 Please see Section 2004.10.
- 9) Are there any other proposed amendments pending on this Part? No
- 10) Statement of Statewide Policy Objectives: This rule will not require a local government to establish, expand or modify its activities in such a way as to necessitate additional expenditures from local revenues.
- 11) Time, Place, and Manner in which interested persons may comment on this proposed rulemaking: Persons who wish to comment on this proposed rulemaking may submit written comments no later than 45 days after the publication of this Notice to:
- | | | |
|---|----|--|
| James C. Rundblom
Staff Attorney
Department of Insurance
320 West Washington
Springfield, Illinois 62767-0001
(217) 785-8559 | or | Susan Anders
Paralegal
Department of Insurance
320 West Washington
Springfield, Illinois
62767-0001
(217) 785-8220 |
|---|----|--|
- 12) Initial Regulatory Flexibility Analysis:

DEPARTMENT OF INSURANCE

NOTICE OF PROPOSED AMENDMENTS

- A) Types of small businesses, small municipalities and not for profit corporations affected: None
- B) Reporting, bookkeeping or other procedures required for compliance: None
- C) Types of professional skills necessary for compliance: None
- 13) Regulatory Agenda on which this rulemaking was summarized: July 2000
- The full text of the Proposed Amendments begins on the next page:

DEPARTMENT OF INSURANCE

DEPARTMENT OF INSURANCE

NOTICE OF PROPOSED AMENDMENTS

NOTICE OF PROPOSED AMENDMENTS

TITLE 50: INSURANCE

CHAPTER 1: DEPARTMENT OF INSURANCE

SUBCHAPTER 2: ACCIDENT AND HEALTH INSURANCE

PART 2004	
ACCIDENT AND HEALTH RESERVES	
Section	Authority
2004.5	Application and Effective Date
2004.10	Active Life Reserves - Individual Policies
2004.20	Active Life Reserves - Group Policies
2004.30	Claim Reserves - Present Value of Amounts Not Yet Due on Claims
2004.40	Policies Issued Prior to Operative Date of Section 353(a)
2004.50	

AUTHORITY: Implementing Section 353(a) and authorized by Section 401 of the Illinois Insurance Code [215 ILCS 5/353(a) and 401].

SOURCE: Filed December 14, 1965, effective December 28, 1965; codified at 7 Ill. Reg. 4219; amended at 26 Ill. Reg. _____, effective _____.

Section 2004.10 Application and Effective Date

This Part applies to all companies transacting in this State ~~state~~ the kinds of business enumerated in clause (b) of Class 1 and clause (a) of Class 2 of Section 4 of the Illinois Insurance Code [215 ILCS 5/4], ~~ch--73--part--616~~ ~~ch--73--part--616~~ and it applies to all accident and health policies for which reserve standards are prescribed under Section 353(a) of the Code. It shall become effective December 28, 1965. The standards established by this Part will no longer be applicable to policies issued and claims incurred on or after January 1, 2002. After that date, applicable standards are as prescribed by the National Association of Insurance Commissioners (NAIC) Accounting Practices and Procedures Manual - as of March 2001 (no subsequent dates or editions).

(Source: Amended at 26 Ill. Reg. _____, effective _____.)

Section 2004.20 Active Life Reserves - Individual Policies

a) General Provisions
Active life reserves are required for all in force policies and are in addition to any reserves required in connection with claims. For policy types in subsection (b)(1)-(3) of this Section ~~2004-20(b)(1)-(3)~~ ~~described--below~~, the minimum reserve shall be determined as specified herein. It should be emphasized, however, that these are minimum standards and higher, adequate reserves shall be established by the company in any case where experience indicates that these minimum

standards do not place a sound value on the liabilities under the policy. For policy types type in subsection (b)(4) of this Section ~~2004-20(b)(4)~~, the minimum reserve shall be the gross pro rata unearned premium.

b) Types of individual accident and health insurance policies

1) Policies which are noncancellable or noncancellable and guaranteed renewable for life or to a specified age, such as 60 or 65.

2) Policies which are guaranteed renewable for life or to a specified age, such as 60 or 65, but under which the company reserves the right to change the scale of premiums.

3) Policies in which the company has reserved the right to cancel or refuse renewal for one or more reasons, but has agreed implicitly or explicitly that, prior to a specified time or age, it will not cancel or decline renewal solely because of deterioration of health after issue; however, policies shall not be considered of this type if the company has reserved the right to refuse renewal provided the right is to be exercised at the same time for all policies in the same category, unless premiums are based on the level premium principle.

4) All other individual policies.

5) Notices:

A) The above does not classify "franchise" as a type of policy. Such policies are frequently written under an agreement limiting the company's right to cancel or refuse renewal. Usually the right is reserved to refuse renewal of all policies in the group or other categories such as those ceasing to be members of the association, and this would place such policies in subsection (b)(4) of this Section ~~2004-20(b)(4)~~ in accordance with the last clause under subsection (b)(3) of this Section ~~2004-20(b)(3)--above~~. However, if premiums are based on the level premium principle or if the renewal privilege granted to the individual insured meets the requirements for policies in subsections (b)(1)-(3) of this Section ~~2004-20(b)(1)-(3)~~, the franchise policy shall be so classified for reserve purposes.

B) "Family group accident and health insurance policies", as defined in Section 367(4) of the Illinois Insurance Code [215 ILCS 5/367(4)] ~~(ch--Rev--Stat--1981--ch--713--part--979(4))~~, should have active life reserves determined under this Section ~~2004-20-of-this-part~~.

C) A policy may have guarantees qualifying it as a policy listed in subsections (b)(1)-(3) of this Section ~~2004-20(b)(1)-(3)~~ until a specified age or duration after which the guarantees, or lack of guarantees, may qualify it as a policy such as listed in subsections (b)(1)-(4) of this Section ~~2004-20(b)(1)-(4)~~. In such case, the policy in each

DEPARTMENT OF INSURANCE

NOTICE OF PROPOSED AMENDMENTS

period shall be considered for reserve purposes according to the type to which it then belongs.

- D) Where all of the benefits of a policy, as provided by rider or otherwise, are not of the same type as listed in this subsection (b) ~~Section 2004-20(b)~~, each benefit shall be considered for reserve purposes according to the type to which it belongs.
- E) The standards for policies in subsections (b)(1)-(3) of this ~~in 2004-20(b)(1-3)~~ interest. The maximum interest rate for reserves shall be 3 1/2% compounded annually.
- ordinally:
- A) 1941 Commissioners Standard Ordinary Table, or
- B) 1958 Commissioners Standard Ordinary Table, or
- C) 1941 Standard Industrial Mortality Table, or
- D) Commissioners 1961 Standard Industrial Mortality Table, or
- E) Such other table as may be approved by the Director.

c) Reserve standards for policies in subsections (b)(1)-(3) of this Section 2004-20(b)(1-3).

- 1) Interest. The maximum interest rate for reserves shall be 3 1/2% compounded annually.
- 2) Mortality:
 - A) 1941 Commissioners Standard Ordinary Table, or
 - B) 1958 Commissioners Standard Ordinary Table, or
 - C) 1941 Standard Industrial Mortality Table, or
 - D) Commissioners 1961 Standard Industrial Mortality Table, or
 - E) Such other table as may be approved by the Director.
- 3) Morbidity or other contingency:
 - A) Total disability due to accident or sickness. The minimum standard shall be the 1964 Commissioners Disability Table.
 - B) Hospital Expense Benefits. The minimum standard shall be the 1956 Inter-company Hospital Table.
 - C) Surgical Expense Benefits. The minimum standard shall be the 1956 Inter-company Surgical Table.
 - D) Accidental Death Benefits. The minimum standard shall be the 1959 Accidental Death Benefits Table.
 - E) All other benefits. The company shall adopt standards to produce reserves which place a sound value on the

- 4) **Negative Reserves.** Negative reserves on any benefit may be offset against positive reserves for other benefits in the same policy, but the mean reserve on any policy shall never be taken as less than one-half the valuation net premium.

- 5) Preliminary Term. The minimum reserve shall be on the basis of a two-year preliminary term.

- 6) Reserve Method. Mean reserves diminished by appropriate credit for valuation net deferred premiums; or, mid-terminal reserves plus gross or net pro rata unearned premium reserves. In no event, however, may the aggregate reserve for all policies be less than the gross pro rata unearned premium under such policies.

- 7) Alternative Valuation Procedures and Assumptions. Provided the reserve on all policies to which the method or basis is applied is not less in the aggregate than the amount determined according to the applicable standards specified above, the company may use any reasonable assumptions as to the interest rate, mortality rates, or the rates of morbidity or other contingency, and may introduce an assumption as to the voluntary termination of

DEPARTMENT OF INSURANCE

NOTICE OF PROPOSED AMENDMENTS

policies. Also, subject to the preceding condition, the company may employ methods other than the methods stated above in determining a sound value of its liabilities under such policies, including but not limited to the following:

- A) Optional use of either the level premium, the one-year preliminary term, or the two-year preliminary term method.
 - B) prospective valuation on the basis of actual gross premiums with reasonable allowance for future expenses.
 - C) The use of approximations such as those involving age groupings, groupings of several years of issue or average amounts of indemnity.
 - D) The computation of the reserve for one policy benefit as a percentage of, or by other relation to, the aggregate policy reserves, exclusive of the benefit or benefits so valued.
 - E) The use of a composite annual claim cost for all or any combination of the benefits included in the policies valued.
- 8) For statement purposes the net reserve liability may be shown as the excess of the mean reserve over the amount of net unpaid and deferred premiums, or, regardless of the underlying method of calculation, it may be divided between the gross pro rata unearned premium reserve and a balancing item for the "additional reserve".

(Source: Amended at 26 Ill. Reg. _____, effective _____)

Section 204.30 Active Life Reserves - Group Policies

- a) This Section applies to accident and health insurance as defined in Section 367 (excluding subsection (4) thereof) and Section 367(a) of the Illinois Insurance Code [215 ILCS 5/367 and 367(a)] ~~§§ 367-Rev-Stat--1991--Ch--37--Pars--979-and-979a).~~
- b) The minimum reserve for active lives on all group accident and health policies shall be the pro rata gross unearned premium.
- c) If a group policy contains a conversion option for terminated employees and such employees, under this provision, may receive an individual policy without evidence of insurability, the company shall establish a reserve for the morbidity cost expected in excess of such costs assumed by the premium, if any, which is then payable by or on behalf of such terminated employee. The group account shall be charged with an amount (conversion charge) to establish this reserve and thereafter such reserve shall be maintained as an individual policy active life reserve.

(Source: Amended at 26 Ill. Reg. _____, effective _____)

DEPARTMENT OF NATURAL RESOURCES

NOTICE OF PROPOSED AMENDMENTS

- 1) Heading of the Part: Administrative and Judicial Review
- 2) Code Citation: 62 Ill. Adm. Code 1847
- 3) Section Numbers: 1847.3 Amend
1847.9 Amend
- 4) Statutory Authority: Implementing and authorized by the Surface Coal Mining Land Conservation and Reclamation Act [225 ILCS 720].
- 5) A Complete Description of the Subjects and Issues Involved: Section 1847.3 is being amended to clearly indicate that an administrative review hearing can be requested for bond release decisions, and to clarify the procedure for bond release public hearings.
- Section 1847.9 is being amended to clearly differentiate between a public hearing and an administrative review hearing for bond release decisions.
- 6) Will this rulemaking replace any emergency rule currently in effect? No
- 7) Does this rulemaking contain an automatic repeal date? No
- 8) Do these proposed amendments contain incorporations by reference? No
- 9) Are there any other proposed amendments pending on this Part? No
- 10) Statement of Statewide Policy Objectives: This rulemaking does not affect units of local government.
- 11) Time, Place and Manner in which interested persons may comment on this proposed rulemaking: Comments on the proposed rulemaking may be submitted in writing for a period of 45 days following publication of this Notice to:

Karen Jacobs
Department of Natural Resources
524 S. Second Street
Springfield IL 62701-1787
217/782-1809

12) Initial Regulatory Flexibility Analysis:

A) Types of small businesses, small municipalities and not for profit corporations affected: None

B) Reporting, bookkeeping or other procedures required for compliance: None

DEPARTMENT OF NATURAL RESOURCES

NOTICE OF PROPOSED AMENDMENTS

- C) Types of professional skills necessary for compliance: None
- 13) Regulatory Agenda on which this rule was summarized: This rulemaking was not included on either of the 2 most recent regulatory agendas because: The Department neglected to file a regulatory agenda on this Part.

The full text of the Proposed Amendments begins on the next page:

DEPARTMENT OF NATURAL RESOURCES

NOTICE OF PROPOSED AMENDMENTS

TITLE 62: MINING
CHAPTER 1: DEPARTMENT OF NATURAL RESOURCES

PART 1847

ADMINISTRATIVE AND JUDICIAL REVIEW

Section	
1847.1	Scope
1847.2	Construction
1847.3	Permit and Related Administrative Hearings
1847.4	Citation Hearings
1847.5	Civil Penalty Assessment Hearings
1847.6	Show Cause Hearings
1847.7	Bond Forfeiture Hearings
1847.8	Individual Civil Penalty Hearings
1847.9	Bond Release Public Hearings

AUTHORITY: Implementing and authorized by the Surface Coal Mining Land Conservation and Reclamation Act [225 ILCS 720].

SOURCE: Adopted at 17 Ill. Reg. 10887, effective July 1, 1993; amended at 20 Ill. Reg. 1919, effective January 19, 1996; amended at 22 Ill. Reg. 20144, effective November 5, 1998; emergency amendment at 23 Ill. Reg. 12484, effective September 23, 1999, for a maximum of 150 days; emergency expired February 19, 2000; amended at 24 Ill. Reg. 5892, effective March 21, 2000; amended at 26 Ill. Reg. _____, effective _____.

Section 1847.3 Permit and Related Administrative Hearings

- a) Within 30 days after an applicant is mailed written notice of the Department's final decision concerning an application for approval of exploration required under 62 Ill. Adm. Code 1772, a permit for surface coal mining and reclamation operations, a permit revision, a permit renewal, a permit rescission or a transfer, assignment, or sale of permit rights, the applicant, or any person with an interest which is or may be adversely affected, may file a written request for a hearing to contest the decision. The procedures outlined in this Section apply to conflict of interest hearings requested under 62 Ill. Adm. Code 1705.21, review of valid existing right determinations under 62 Ill. Adm. Code 1761.12(g), review of exemption determinations under 62 Ill. Adm. Code 1702.11(f) and 1702.17(c)(2), formal review of decisions not to inspect or enforce under 62 Ill. Adm. Code 1840.17, review of a permit issued pursuant to 62 Ill. Adm. Code 1785.23, review of bond release decisions under Section 1847.9(i) of this Part and review of bond adjustment determinations under 62 Ill. Adm. Code 1800.15. Failure to file a request for hearing within this 30 day time period shall result in a waiver of the right to such hearing; requests for hearing filed after the expiration of the 30 day time period shall

DEPARTMENT OF NATURAL RESOURCES

NOTICE OF PROPOSED AMENDMENTS

be dismissed on motion of the Department in accordance with 62 Ill. Adm. Code 1848.12. A request for hearing is deemed filed the day it is received by the Department.

b) The hearing request shall state:

- 1) The petitioner's name and address;
 - 2) A clear statement of the facts entitling the petitioner to relief, including the petitioner's interests ~~interests~~ which is or may be adversely affected by the Department's final decision;
 - 3) How the Department's final decision may or will adversely affect the interests ~~interests~~ specified;
 - 4) An explanation of each specific alleged error in the Department's final decision, including reference to the statutory and/or regulatory provisions allegedly violated;
 - 5) The specific relief sought from the Department; and
 - 6) Any other relevant information.
- c) Any party to the hearing may request that a pre-hearing conference be scheduled, in accordance with 62 Ill. Adm. Code 1848.7.
- d) Unless a pre-hearing conference has been scheduled or unless the person requesting the hearing waives the 30 day time limit, the Department shall start the hearing within 30 days after the hearing request. The hearing shall be on the record and adjudicatory in nature. No person who presided at an informal conference under 62 Ill. Adm. Code 1773.13(c) or a public hearing under 62 Ill. Adm. Code 1773.14 shall either preside at the hearing or participate in the decision following the hearing.
- e) Notice of hearing. The petitioner and other interested persons shall be given written notice of the hearing in accordance with 62 Ill. Adm. Code 1848.5 at least 5 five working days prior to the hearing ~~thereof~~. Notice of the hearing shall also be posted at the appropriate district or field office.
- f) Record of hearing. A complete record of the hearing and all testimony shall be made by the Department and recorded stenographically. Such record shall be maintained and shall be available to the public until at least 60 days after the final decision referred to in subsection (j) below is issued.
- g) Burden of proof.
- 1) In a proceeding to review a decision on an application for a new permit:
 - A) If the permit applicant is seeking review, the Department shall have the burden of going forward to establish a prima facie case as to the failure to comply with the applicable requirements of the State Act or regulations or as to the appropriateness of the permit terms and conditions, and the permit applicant shall have the ultimate burden of persuasion as to entitlement to the permit or as to the inappropriateness of the permit terms and conditions.
 - B) If any other person is seeking review, that person shall have the burden of going forward to establish a prima facie

DEPARTMENT OF NATURAL RESOURCES

NOTICE OF PROPOSED AMENDMENTS

case and the ultimate burden of persuasion by a preponderance of the evidence that the permit application fails in some manner to comply with the applicable requirements of the State Act or regulations.

- 2) In all other proceedings held under this Section, the party seeking to reverse the Department's decision shall have the burden of proving by a preponderance of evidence that the Department's decision is in error.

h) Within 30 days after the close of the record, the hearing officer shall issue and serve, by certified mail, each party who participated in the hearing with a proposed decision consisting of proposed written findings of fact, conclusions of law and an order adjudicating the hearing request.

i) Within ~~10~~ ten days after service of the hearing officer's proposed decision, each party to the hearing may file with the hearing officer written exceptions to the hearing officer's proposed decision, stating how and why such decision should be modified or vacated. All parties shall have ~~10~~ ten days after service of written exceptions to file a response ~~thereto~~ with the hearing officer. Failure to file written exceptions or a response ~~thereto~~ is not a failure to exhaust administrative remedies and does not affect a party's right to judicial review.

j) If no written exceptions are filed, the hearing officer's proposed decision shall become final ~~10~~ ten days after service of such decision. If written exceptions are filed, the hearing officer shall within 15 days following the time for filing a response ~~thereto~~ either issue his final administrative decision affirming or modifying his proposed decision, or shall vacate the decision and remand the proceeding for rehearing.

k) Request for temporary relief.

- 1) Any party may file a request for temporary relief at any time prior to a decision by the hearing officer, so long as the relief sought is not the issuance of a permit where a permit application has been disapproved in whole or in part. The request for temporary relief shall include:

A) A detailed written statement setting forth the reasons why relief should be granted;

B) A statement of the specific relief requested;

C) A showing that there is a substantial likelihood that the person seeking relief will prevail on the merits of the final determination of the proceeding; and

D) A showing that the relief sought will not adversely affect the public health or safety or cause significant, imminent environmental harm to land, air or water resources.

2) The hearing officer may hold a hearing on any issue raised by the request for temporary relief.

3) Within 15 days after the close of the record on the request for temporary relief, the hearing officer shall issue an order or

DEPARTMENT OF NATURAL RESOURCES

NOTICE OF PROPOSED AMENDMENTS

decision granting or denying such temporary relief. Temporary relief may be granted only if:

A) All parties to the proceeding have been notified and given an opportunity to be heard on the request for temporary relief;

B) The person requesting such relief shows a substantial likelihood of prevailing on the merits of the final determination of the proceeding;

C) Such relief will not adversely affect the public health or safety, or cause significant, imminent environmental harm to land, air or water resources; and

D) The relief sought is not the issuance of a permit where a permit has been denied by the Department, in whole or in part, except that continuation under an existing permit shall be allowed where the applicant has a valid permit issued pursuant to 62 Ill. Adm. Code 300.

1) Judicial review.

1) Following service of the Department's final administrative decision, any person with an interest which is or may be adversely affected and who has participated in the administrative hearing under this Section may request judicial review of that decision in accordance with the Administrative Review Law [735 ILCS 5/Art. III], if:

A) The person is aggrieved by the Department's final administrative decision; or

B) The hearing officer or Department failed to act within the time limits specified in the Surface Mining Control and Reclamation Act of 1977 (30 USC 1201 et seq.), the Surface Coal Mining Land Conservation and Reclamation Act (State Act) [225 ILCS 720] or this Section.

2) Review under this subsection (1) shall not be construed to limit rights established in Section 8.05 of the State Act [225 ILCS 720/8.05].

(Source: Amended at 26 Ill. Reg. _____, effective _____)

Section 1847.9 Bond Release Public Hearings

a) A hearing requested pursuant to 62 Ill. Adm. Code 1800.40(e) shall be held within 30 days after receipt of the request for hearing.

b) Bond release public hearings shall be held in the locality of the surface coal mining operation from which bond release is sought, at the location of the Department's office, or at the State capital, at the option of the objector.

c) Any party to the hearing may request that a pre-hearing conference be scheduled, in accordance with 62-III-Adm-Code-1040-7.

d) Notice of hearing. All parties shall be given written notice of the

DEPARTMENT OF NATURAL RESOURCES

NOTICE OF PROPOSED AMENDMENTS

hearing in accordance with 62-III-Adm-Code-184B-5 at least 5 five working days prior to the hearing thereto. The Department shall advise the date, time and location of the hearing in a newspaper of general circulation in the locality of the surface coal mining operation for 2 two consecutive weeks.

- d) The Department shall appoint a hearing officer to conduct the hearing. The hearing officer shall be a licensed attorney or an employee of the Department. The hearing officer shall conduct a fair hearing and shall take all necessary action to avoid delay, to maintain order, and to develop a clear and complete record. He or she shall have all powers necessary to these ends, including but not limited to the power to change the time and place of the hearing and adjourn the hearing from time to time or from place to place within the county of the surface coal mining and reclamation operation and to give due notice of that action consistent with the notice requirement of subsection (c). Settlement agreement--if a settlement agreement is entered into at any stage of the hearing process, the person with whom the settlement is reached will be deemed to have waived all right to further review of the proposed bond release, except as otherwise expressly provided for in the settlement agreement--the settlement agreement shall contain a waiver clause to this effect.
- ef) The hearing shall be informal. Summary disposition--Where the person who requested the hearing fails to appear at the hearing that person will be deemed to have waived his right to a hearing.

1) All participants in the public hearing shall have the right to be represented by counsel or by some other authorized representative.

2) The hearing officer shall allow the applicant and any interested persons to present data, views or arguments relevant to the bond release application.

3) Where necessary in order to prevent undue prolongation of the hearing, the hearing officer shall establish a time period during which the participants shall be heard. Every effort will be made to allow all persons who wish to make a statement to do so.

4) A verbatim transcript of the hearing shall be maintained by a court reporter appointed by the Department and shall constitute a part of the record. Copies of the transcript shall be furnished, at cost, upon request to the court reporter. The record shall be maintained by the Department and shall be accessible to the public at the Department's Springfield Office until final release of the applicant's reclamation performance bond.

5) The record shall remain open for additional written statements responsive to statements or other documents for 10 days following the close of the hearing, or for such other reasonable time as the hearing officer may direct.

fg) If the hearing request is withdrawn, the hearing need not be held. Burden of proof--The party seeking to reverse the Department's proposed release of a bond shall have the burden of proving by a

DEPARTMENT OF NATURAL RESOURCES

NOTICE OF PROPOSED AMENDMENTS

preponderance of evidence that the Department's decision is in error. Record of hearing. A complete record of the hearing and all testimony shall be made by the Department and recorded stenographically. The Such record shall be maintained and shall be available to the public until at least 60 days after the Department's final decision on the bond release application Director's decision referred to in subsection (k) is issued.

h) The Department Within 30 days after the close of the record for the bond release hearing, the hearing officer shall issue and serve, by certified mail, each party who participated in the hearing with the Department's bond release decision with a proposed decision consisting of proposed written findings of fact, conclusions of law and an order adjudicating the hearing request.

j) Within ten days after service of the hearing officer's proposed decision, each party to the hearing may file with the hearing officer written exceptions to the hearing officer's proposed decision, stating how and why such decision should be modified or vacated. All parties shall have ten days after service of written exceptions to file a response thereto with the hearing officer. Failure to file written exceptions or a response thereto is not a failure to exhaust administrative remedies and does not affect a party's right to judicial review.

k) If no written exceptions are filed, the hearing officer's proposed decision shall become final ten days after service of such decision. If written exceptions are filed, the hearing officer shall, within days following the time for filing a response thereto, either issue his final administrative decision affirming or modifying his proposed decision, or shall vacate the decision and remand the proceeding for rehearing.

i) Any person with a valid legal interest who either filed written objections to the bond release or were a party to the public hearing may request an administrative hearing on the Department's final administrative decision on the bond release application by filing a request for hearing in accordance with the procedures set forth in Section 1847.3 may be appealed in accordance with the Administrative Review Law (35-1585-5/III).

(Source: Amended at 26 Ill. Reg. _____, effective _____)

DEPARTMENT OF NATURAL RESOURCES
NOTICE OF PROPOSED AMENDMENTS

1) Heading of the Part: Bonding and Insurance Requirements for Surface Coal Mining and Reclamation Operations

2) Code Citation: 62 Ill. Adm. Code 1800

3) Section Numbers: Proposed Action:
1800.11 Amend
1800.40 Amend

4) Statutory Authority: Implementing and authorized by the Surface Coal Mining Land Conservation and Reclamation Act [225 ILCS 720].

5) A Complete Description of the Subjects and Issues Involved: Section 1800.11 is being amended to require that the bond for a permit be submitted within one year of the applicant being notified of the bond amount. Failure to file the bond within one year of notice of the amount will, absent the granting of an extension, result in the application being deemed null and void.

Section 1800.40 is being amended to clarify that there is a difference between a public hearing and an administrative review hearing for bond release decisions.

6) Will this rulemaking replace any emergency rule currently in effect? No

7) Does this rulemaking contain an automatic repeal date? No

8) Do these proposed amendments contain incorporations by reference? No

9) Are there any other proposed amendments pending on this Part? No

10) Statement of Statewide Policy Objectives: This rulemaking does not affect units of local government.

11) Time, Place and Manner in which interested persons may comment on this proposed rulemaking: Comments on the proposed rulemaking may be submitted in writing for a period of 45 days following publication of this Notice to:

Karen Jacobs
Department of Natural Resources
524 S. Second Street
Springfield IL 62701-1787
217/782-1809

12) Initial Regulatory Flexibility Analysis:

A) Types of small businesses, small municipalities and not for profit

DEPARTMENT OF NATURAL RESOURCES
NOTICE OF PROPOSED AMENDMENTS

corporations affected: None

B) Reporting, bookkeeping or other procedures required for compliance:
None

C) Types of professional skills necessary for compliance: None

13) Regulatory Agenda on which this rule was summarized: January 2001

The full text of the Proposed Amendments begins on the next page:

DEPARTMENT OF NATURAL RESOURCES

NOTICE OF PROPOSED AMENDMENTS

TITLE 62: MINING

CHAPTER I: DEPARTMENT OF NATURAL RESOURCES

PART 1800

BONDING AND INSURANCE REQUIREMENTS FOR
SURFACE COAL MINING AND RECLAMATION OPERATIONS

Section	Scope and Purpose	Long-Term
1800.1	Objective (Repealed)	
1800.2	Department Responsibilities	
1800.3	Definitions	
1800.4	Requirement to File a Bond	
1800.5	Form of the Performance Bond	
1800.6	Period of Liability	
1800.7	Determination of Bond Amount	
1800.8	Adjustment of Amount	
1800.9	General Terms and Conditions of Bond	
1800.10	Bonding Requirements for Underground Coal Mines and Coal-Related Surface Facilities and Structures	
1800.11	Surety Bonds	
1800.12	Collateral Bonds	
1800.13	Self-Bonding	
1800.14	Replacement of Bonds	
1800.15	Requirement to Release Performance Bonds	
1800.16	Forfeiture of Bonds	
1800.17	Terms and Conditions for Liability Insurance	

AUTHORITY: Implementing and authorized by the Surface Coal Mining Land Conservation and Reclamation Act [225 ILCS 720].

SOURCE: Adopted at 4 Ill. Reg. 37, p. 1, effective June 1, 1982; amended at 6 Ill. Reg. 1, effective June 1, 1982; codified at 8 Ill. Reg. 9354; amended at 11 Ill. Reg. 7985, effective July 1, 1987; amended at 14 Ill. Reg. 11785, effective January 1, 1991; amended at 17 Ill. Reg. 10916, effective July 1, 1993; amended at 20 Ill. Reg. 1939, effective January 19, 1996; amended at 20 Ill. Reg. 15683, effective December 2, 1996; amended at 22 Ill. Reg. 20157, effective November 5, 1998; emergency amendment at 23 Ill. Reg. 12490, effective September 23, 1999, for a maximum of 150 days; emergency expired February 19, 2000; amended at 24 Ill. Reg. 5898, effective March 21, 2000; amended at 26 Ill. Reg. _____, effective _____.

Section 1800.11 Requirement to File a Bond

- a) After a permit application under 62 Ill. Adm. Code 1772 through 1785 has been approved, but before a permit is issued in accordance with 62 Ill. Adm. Code 1773.19, the Department shall notify the applicant in writing of the amount of bond required to ensure reclamation of the

DEPARTMENT OF NATURAL RESOURCES

NOTICE OF PROPOSED AMENDMENTS

permit area.⁷ The applicant shall file with the Department, on a form provided by the Department a bond or bonds for performance made payable to the Department and conditioned upon the faithful performance of all the requirements of the State Act, 62 Ill. Adm. Code 1700 through 1850, the permit and the reclamation plan. Failure to file a performance bond or other equivalent guarantee in accordance with this Section within one-~~4~~ 1¹ year after the issuance of the Department's written notification of the required bond amount ~~findings approving-a-permit-application-under--62--it--Adm--Code--1773-15(e)~~ shall result in the application being deemed null and void in the ~~expiration-of-the-Department's-written-findings-approving-the-permit application~~. The Department may issue an extension to this time limit if the applicant can demonstrate just cause for doing so.

b) Bond coverage.

- 1) The bonds or bonds shall cover the entire permit area, or an identified increment of land within the permit area upon which the operator will initiate and conduct surface coal mining operations during the initial term of the permit.
- 2) As surface coal mining and reclamation operations on succeeding increments are initiated and conducted within the permit area, the permittee shall file with the Department an additional bond or bonds to cover such increments in accordance with this Section.
- 3) The operator shall identify the initial and successive areas or increments for bonding on the permit application map submitted for approval as provided in the application (under 62 Ill. Adm. Code 1780 and 1784), and shall specify the bond amount to be provided for each area or increment.
- 4) Independent increments shall be of sufficient size and configuration to provide for efficient reclamation operations should reclamation by the Department become necessary pursuant to Section 1800.50.
- c) An operator shall not disturb any surface areas, succeeding increments or extend any underground shafts, tunnels, or operations prior to acceptance by the Department of the required performance bond.
- d) The applicant shall file, with the approval of the Department, a bond or bonds under one of the following schemes to cover the bond amounts for the permit area as determined in accordance with Section 1800.14:
 - 1) A performance bond or bonds for the entire permit area;
 - 2) A cumulative bond schedule and the performance bond required for the full reclamation of the initial area to be disturbed; or
 - 3) An incremental bond schedule and the performance bond required for the first increment in the schedule.
- e) The Department shall administer self-bonding for eligible permittees consistent with all applicable provisions of Section 1800.1 through 1800.50.

(Source: Amended at 26 Ill. Reg. _____, effective _____,

DEPARTMENT OF NATURAL RESOURCES

NOTICE OF PROPOSED AMENDMENTS

Section 1800.40 Requirement to Release Performance Bonds

a) Bond release application.

1) The permittee may file an application with the Department for the release of all or part of a performance bond at any time. The permittee may authorize a person to act on the permittee's behalf. The Department may also initiate an application for bond release. For bond releases initiated by the Department, the Department shall undertake the notification and certification requirements of the applicant under this Section.

2) Within 30 days after an application for bond release has been filed with the Department, the applicant shall submit a copy of an advertisement placed at least once a week for 4 ~~four~~ successive weeks in a newspaper of general circulation in the locality of the surface coal mining operation. The advertisement shall be considered part of any bond release application and shall contain the permit number and approval date, notification of the precise location of the land affected, the number of acres, the type and amount of the bond filed and the portion sought to be released, the type and appropriate dates of reclamation work performed, a description of the results achieved as they relate to the permittee's approved reclamation plan, and the name and address of the Department to which written comments, objections, or requests for public hearings on the specific bond release may be submitted pursuant to subsection (e). In addition, as part of any bond release application, the applicant shall submit copies of letters which he or she has sent to adjoining property owners, local governmental bodies, planning agencies, sewage and water treatment authorities, and water companies in the locality in which the surface coal mining and reclamation operation took place, notifying them of the intention to seek release from the bond. The applicant shall submit a certification of publication for such advertisement prior to the Department's final administrative decision releasing bond.

3) The applicant shall include in the application for bond release a notarized statement which certifies that all applicable reclamation activities have been accomplished in accordance with the requirements of the State Act, the regulatory program and the approved reclamation plan. Such certification shall be submitted for each application or phase of bond release.

b) Inspection by Department.

1) Upon filing of the bond release application, the Department shall, within 30 days, or as soon thereafter as weather conditions permit, conduct an inspection and evaluation of the reclamation work involved. The evaluation shall consider, among other factors, the degree of difficulty to complete any remaining

DEPARTMENT OF NATURAL RESOURCES

NOTICE OF PROPOSED AMENDMENTS

reclamation, whether pollution of surface and subsurface water is occurring, the probability of future occurrence of such pollution, and the estimated cost of abating such pollution. The surface owner, agent, or lessee shall be given notice of such inspection and may participate with the Department in making the bond release inspection. The Department may arrange with the permittee to allow access to the permit area, upon request by any person with an interest in bond release, for the purpose of gathering information relevant to the proceeding.

2) Within 60 days from the filing of the bond release application, if no public hearing is held pursuant to subsection (e), or within 30 days after a public hearing has been held pursuant to subsection (e), the Department shall notify, in writing, the permittee, the municipality and county in which the surface coal mining operation is located, the surety, or other persons with an interest in bond collateral who have requested notification under Section 1800.21(e), and the persons who either filed objections in writing or objectors who were a party to the hearing proceedings, if any, its final administrative decision to release or not to release all or part of the performance bond. The municipality and county shall be notified by certified mail.

c) The Department may release all or part of the bond for the entire permit area or incremental area if the Department is satisfied that all the reclamation or a phase of the reclamation covered by the bond or portion thereof has been accomplished in accordance with the following schedules for reclamation of Phases I, II, and III:

1) At the completion of Phase I, after the operator completes the backfilling, regrading (which includes the replacement of topsoil) and drainage control of a bonded area in accordance with the approved reclamation plan, 60% of the bond or collateral for the applicable area.

2) At the completion of Phase II, after revegetation has been established on the regraded mined lands in accordance with the approved reclamation plan, an additional amount of bond. When determining the amount of bond to be released after successful revegetation has been established, the Department shall retain that amount of bond for the revegetated area which would be sufficient to cover the cost of reestablishing revegetation if completed by a third party and for the period specified for operator responsibility in Section 6.08(d)(2) of the State Act for reestablishing revegetation. No part of the bond or deposit shall be released under this subsection (c)(2) so long as the lands to which the release would be applicable are contributing suspended solids to streamflow or runoff outside the permit area in excess of the requirements set by Section 3.10 of the State Act and by 62 Ill. Adm. Code 1816 or 1817 or until soil productivity for prime farmland has returned to the equivalent levels of yield as nonmined land of the same soil type in the

DEPARTMENT OF NATURAL RESOURCES

NOTICE OF PROPOSED AMENDMENTS

surrounding area under equivalent management practices as determined from the soil survey performed pursuant to Section 2.02(a) of the State Act and 62 Ill. Adm. Code 1823. Where a silt dam is to be retained as a permanent impoundment pursuant to 62 Ill. Adm. Code 1816 or 1817, the Phase II portion of the bond may be released under this subsection so long as provisions for sound future maintenance by the operator or the landowner have been made with the Department.

- 3) At the completion of Phase III, after the operator has completed successfully all surface coal mining and reclamation activities, the release of the remaining portion of the bond, but not before the expiration of the period specified for operator responsibility in 62 Ill. Adm. Code 1816.116 or 1817.116. However, no bond shall be fully released under this subsection until the reclamation requirements of the State Act and the permit are fully met.

- d) If the Department disapproves the application for release of the bond or portion thereof, the Department shall notify the permittee, the surety, and any person with an interest in collateral as provided for in Section 1800.21(e) in writing, stating the reasons for disapproval and recommending corrective actions necessary to secure the release and allowing an opportunity for a public hearing pursuant to subsection (f) below. e) Any person with a valid legal interest which might be adversely affected by release of the bond, or the responsible officer or head of any Federal, State, or local governmental agency which has jurisdiction by law or special expertise with respect to any environmental, social, or economic impact involved in the operation or which is authorized to develop and enforce environmental standards with respect to such operations, shall have the right to file a written request for hearing and written objections to the proposed release from bond with the Department within 30 days after the last publication of the notice required by subsection (a)(2). If written objections are filed and a hearing is requested, the hearing shall be held in accordance with 62 Ill. Adm. Code 1847.9.

- e) If the Department disapproves the application for release of the bond or portion of the bond, the Department shall notify the permittee, the surety, and any person with an interest in collateral as provided for in Section 1800.21(e), in writing, stating the reasons for disapproval and recommending corrective actions necessary to secure the release. The permittee, the surety, and any person with an interest in collateral as provided for in Section 1800.21(e) may request an administrative hearing on the disapproval of bond release by filing a request for hearing in accordance with the procedures set forth in 62 Ill. Adm. Code 1847.3.

(Source: Amended at 26 Ill. Reg. _____, effective _____)

DEPARTMENT OF NATURAL RESOURCES

NOTICE OF PROPOSED AMENDMENTS

- 1) Heading of the Part: General
- 2) Code Citation: 62 Ill. Adm. Code 1700
- 3) Section Numbers: Proposed Action:
1700.11 Amend
1700.12 Amend
- 4) Statutory Authority: Implementing and authorized by the Surface Coal Mining Land Conservation and Reclamation Act [225 ILCS 720]
- 5) A Complete Description of the Subjects and Issues Involved: Section 1700.11(b) is being amended to remove reference to the Interagency Committee because it was abolished by Public Act 90-0490. Section 1700.12(a) is being amended to remove the Department's address to preclude having to do a rule change every time the address changes.
- 6) Will these rulemaking replace any emergency rule currently in effect? No
- 7) Do these rulemaking contain an automatic repeal date? No
- 8) Do these proposed amendments contain incorporations by reference? No
- 9) Are there any other proposed amendments pending on this Part? No
- 10) Statement of Statewide Policy Objectives: This rulemaking does not affect units of local government.
- 11) Time, Place and Manner in which interested persons may comment on this proposed rulemaking: Comments on the proposed rulemaking may be submitted in writing for a period of 45 days following publication of this Notice to:
- Karen Jacobs
Department of Natural Resources
524 S. Second Street
Springfield IL 62701-1787
217/782-1809
- 12) Initial Regulatory Flexibility Analysis:
- A) Types of small businesses, small municipalities and not for profit corporations affected: None
- B) Reporting, bookkeeping or other procedures required for compliance: None
- C) Types of professional skills necessary for compliance: None

DEPARTMENT OF NATURAL RESOURCES

NOTICE OF PROPOSED AMENDMENTS

- 13) Regulatory Agenda on which this rule was summarized: This rulemaking was not included on either of the 2 most recent regulatory agendas because: The Department neglected to file a regulatory agenda on this Part.

The full text of the Proposed Amendments begins on the next page:

DEPARTMENT OF NATURAL RESOURCES

NOTICE OF PROPOSED AMENDMENTS

TITLE 62: MINING

CHAPTER I: DEPARTMENT OF NATURAL RESOURCES

PART 1700

GENERAL

Section

1700.11	Applicability
1700.12	Petitions to Initiate Rulemaking
1700.13	Notice of Citizen Suits
1700.14	Availability of Records
1700.15	Computation of Time
1700.16	Fees and Forfeitures
1700.17	Administration
1700.18	Advisory Council on Reclamation

AUTHORITY: Implementing and authorized by the Surface Coal Mining Land Conservation and Reclamation Act [225 ILCS 720].

SOURCE: Adopted at 4 Ill. Reg. 37, p. 1, effective June 1, 1982; amended at 6 Ill. Reg. 1, effective June 1, 1982; codified at 8 Ill. Reg. 9347; amended at 11 Ill. Reg. 8051, effective July 1, 1987; amended at 14 Ill. Reg. 11795, effective January 1, 1991; amended at 15 Ill. Reg. 17136, effective January 1, 1992; amended at 20 Ill. Reg. 1956, effective January 19, 1996; recodified from the Department of Mines and Minerals to the Department of Natural Resources at 21 Ill. Reg. 16192; amended at 26 Ill. Reg. _____, effective _____.

Section 1700.11 Applicability

- a) The requirements of 62 Ill. Adm. Code 1700 through 1850 apply to all coal exploration and surface coal mining and reclamation operations, except:
- 1) The extraction of coal by a landowner or lessee for the landowner's or lessee's own noncommercial use from land owned or leased by him or her where 250 tons or less of coal are removed in any ~~twelve~~ 12 consecutive months. Noncommercial use does not include the extraction of coal by one ~~four~~ unit of an integrated company or other business or nonprofit entity which uses the coal in its own manufacturing or power plants;
 - 2) ~~The extraction of coal incidental to the extraction of other minerals where coal does not exceed sixteen--and-two-thirds percent--~~ 16 2/3% of the total mineral tonnage mined for purposes of commercial use or sale in accordance with 62 Ill. Adm. Code 1702;
 - 3) Coal exploration on lands subject to the requirements of 43 CFR 3480-3487 (1994); and
 - 4) ~~The extraction of coal on Federal lands except to the extent~~

DEPARTMENT OF NATURAL RESOURCES

NOTICE OF PROPOSED AMENDMENTS

provided under a cooperative agreement with the United States. (Section 1.06 of the Surface Coal Mining Land Conservation and Reclamation Act [225 ILCS 720/1.06(d)]-)

- b) The Illinois Department of Natural Resources, Office of Mines and Minerals (Department) shall, within sixty-~~t~~ 60 days after a request from any person who intends to conduct surface coal mining operations, make a written determination whether the operation is exempt under subsection (a). The Department shall, within ~~thirty-t~~ 30 days after receipt of a request for exemption under subsection (a), publish notice of the request in a newspaper of general circulation in the area of the proposed exempted operation ~~and--send--the--request--to~~ ~~interagency--members~~. Prior to the time a determination is made, any person may submit, and the Department shall consider, any written information relevant to the determination. A person requesting that an operation be declared exempt shall have the burden of establishing the exemption. If a written determination of exemption is reversed through subsequent administrative or judicial action, any person who has made a complete and accurate request for an exemption and relied upon the determination shall not be cited for violations which occurred prior to the date of the reversal.
- c) The requirements of 62 Ill. Adm. Code 1800 through 1850 (the permanent program regulations) apply to all surface coal mining and reclamation operations for which the surface coal mining operation is required to obtain a permit under the Surface Coal Mining Land Conservation and Reclamation Act (the State Act) [225 ILCS 720] on and after February 1, 1983. 62 Ill. Adm. Code 1815 and 1840 through 1846 apply to both coal exploration operations and surface coal mining and reclamation operations regardless of whether a permit is required, except as otherwise specified in those rules.
- d) Existing structures
 - 1) Each structure used in connection with a coal exploration or surface coal mining and reclamation operations shall comply with the performance standards and the design requirements of the permanent program regulations except that:
 - A) The Department shall exempt an existing structure which meets the performance standards of the permanent program regulations but does not meet the design requirements of the permanent program regulations from meeting those design requirements. The Department shall grant this exemption as part of the permit application process after both obtaining the information 62 Ill. Adm. Code 1780.12 or 1784.12 require and after the Department makes the findings required in 62 Ill. Adm. Code 1773.15(c)(6); and
 - B) If a performance standard in 62 Ill. Adm. Code 280 (interim program regulations) is at least as stringent as the comparable performance standard of the permanent program regulations, an existing structure which meets the performance standards of the interim program regulations

DEPARTMENT OF NATURAL RESOURCES

NOTICE OF PROPOSED AMENDMENTS

shall be exempted by the Department from meeting the design requirements of the permanent program regulations. The Department will grant this exemption as part of the permit application process after obtaining the information 62 Ill. Adm. Code 1780.12 or 1784.12 require and after the Department makes the findings required in 62 Ill. Adm. Code 1773.15(c)(6).

- 2) The exemptions provided in subsections (d)(1)(A) and (d)(1)(B) shall not apply to:
 - A) The requirements for existing and new waste piles used either temporarily or permanently as dams or embankments; and
 - B) The requirements to restore the approximate original contour of the land.
- 3) The permittee shall modify or reconstruct an existing structure which meets a performance standard of the interim program regulations which is incompatible with the permanent program regulations to meet the design standard of the permanent program regulations, pursuant to 62 Ill. Adm. Code 1773.15(c)(6), 1780.12 and 1784.12.
- 4) The permittee shall modify or reconstruct an existing structure which does not meet the performance standards of the interim program regulations and which the applicant proposes to use in connection with a coal exploration or surface coal mining and reclamation operation to meet the design standards of the permanent program regulations prior to issuance of the permit.
- e) Effective dates
 - 1) Any person conducting coal exploration on or after February 1, 1983, shall either file a notice of intention to explore or obtain approval of the Department, as required by 62 Ill. Adm. Code 1772.
 - 2) Coal exploration performance standards in 62 Ill. Adm. Code 1815 apply after August 3, 1982.
- f) Termination of jurisdiction
 - 1) The Department may terminate its jurisdiction under the regulatory program over the reclaimed site of a completed surface coal mining and reclamation operation, or increment thereof, when:
 - A) The Department determines in writing that under the initial program, all requirements imposed under 62 Ill. Adm. Code 280 have been successfully completed; or
 - B) The Department determines in writing that under the permanent program, all requirements imposed under the regulatory program have been successfully completed or, where a performance bond was required, the Department has made a final decision in accordance with 62 Ill. Adm. Code 1800.40 to release the performance bond fully.
 - 2) Following a termination under subsection (f)(1) above, the

DEPARTMENT OF NATURAL RESOURCES

NOTICE OF PROPOSED AMENDMENTS

Department shall reassert jurisdiction under the regulatory program over a site if it is demonstrated that the bond release or written determination referred to in subsection (f)(1) above was based upon fraud, collusion or misrepresentation of a material fact.

(Source: Amended at 26 Ill. Reg. _____, effective _____)

Section 1700.12 Petitions to Initiate Rulemakings

a) Any person may petition the Department to initiate a proceeding for the issuance, amendment, or repeal of any regulation under the Surface Coal Mining Land Conservation and Reclamation Act [225 ILCS 720] (the State Act). The petition shall be submitted to the Department's Springfield office ~~Office of the Director, Illinois Department of Natural Resources, 524 South Second Street, Springfield, Illinois 62701-1787.~~

b) The petition shall be a concise statement of the facts, technical justification, and law which require issuance, amendment, or repeal of a regulation under the State Act and whether the petitioner wants a public hearing.

c) Upon receiving the petition, the Director shall determine if the petition sets forth facts, technical justification, and law which may provide a reasonable basis for issuance, amendment or repeal of a regulation. A reasonable basis is not facts, technical justification, or law previously considered in a petition for rulemaking. The Director shall hold a public hearing, if requested, to determine whether the petition shall be granted.

d) Within ~~ninety~~ 90 days after receiving the petition, the Director shall issue a final written decision either granting or denying the petition. The Director's decision shall constitute the final decision for the Department.

1) If the Director grants the petition, the Director shall, at the time he issues the decision, submit the proposed rule to the Administrative Code Division of the Secretary of State with a notice and text of the proposed rulemaking; or

2) If the Director denies the petition, the Director shall notify the petitioner in writing, stating the reasons for denial.

(Source: Amended at 26 Ill. Reg. _____, effective _____)

DEPARTMENT OF NATURAL RESOURCES

NOTICE OF PROPOSED AMENDMENT

- 1) Heading of the Part: General Content Requirements for Permit Applications
- 2) Code Citation: 62 Ill. Adm. Code 1777
- 3) Section Numbers: Proposed Action:
1777.17 Amend
- 4) Statutory Authority: Implementing and authorized by the Surface Coal Mining Land Conservation and Reclamation Act [225 ILCS 720].
- 5) A Complete Description of the Subjects and Issues Involved: This Section is being amended to require the applicant to submit the permit fee within one year of being notified of the fee amount. If the fee is not submitted within one year, the application will be denied.
- 6) Will this rulemaking replace any emergency rulemaking currently in effect?
No

7) Does this rulemaking contain an automatic repeal date? No

8) Do these proposed amendments contain incorporations by reference? No

9) Are there any other proposed amendments pending on this Part? No

10) Statement of Statewide Policy Objectives: This rulemaking does not affect units of local government.

11) Time, Place and Manner in which interested persons may comment on this proposed rulemaking: Comments on the proposed rulemaking may be submitted in writing for a period of 45 days following publication of this Notice to:

Karen Jacobs
Department of Natural Resources
524 S. Second Street
Springfield IL 62701-1787
217/782-1809

12) Initial Regulatory Flexibility Analysis:

A) Types of small businesses, small municipalities and not for profit corporations affected: None

B) Reporting, bookkeeping or other procedures required for compliance: None

C) Types of professional skills necessary for compliance: None

DEPARTMENT OF NATURAL RESOURCES

NOTICE OF PROPOSED AMENDMENT

13) Regulatory Agenda on which this amendment was summarized: January 2001

The full text of the Proposed Amendment begins on the next page:

DEPARTMENT OF NATURAL RESOURCES

NOTICE OF PROPOSED AMENDMENT

TITLE 62: MINING

CHAPTER I: DEPARTMENT OF NATURAL RESOURCES

PART 1777

GENERAL CONTENT REQUIREMENTS FOR PERMIT APPLICATIONS

Section

1777.1 Scope
1777.11 Format and Contents
1777.13 Reporting of Technical Data
1777.14 Maps and Plans: General Requirements
1777.15 Completeness
1777.17 Permit Fees

AUTHORITY: Implementing and authorized by the Surface Coal Mining Land Conservation and Reclamation Act [225 ILCS 720].

SOURCE: Adopted at 11 Ill. Reg. 8069, effective July 1, 1987; amended at 17 Ill. Reg. 10943, effective July 1, 1993; recodified from the Department of Mines and Minerals to the Department of Natural Resources at 22 Ill. Reg. 7712; amended at 26 Ill. Reg. _____, effective _____.

Section 1777.17 Permit Fees

- a) After a permit application under 62 Ill. Adm. Code 1772 through 1785 has been deemed approvable, but before a permit is issued in accordance with 62 Ill. Adm. Code 1773.19, the Department shall notify the applicant in writing of the amount of fee required for the permit.
- ba) Permit fees are payable at the time of permit issuance and on the anniversary date of the permit. Those permits for which fees are not received within thirty--(30) days after of the anniversary date are subject to the provisions of 62 Ill. Adm. Code 1840 through 1845.
- cb) Permit fees are payable as a lump sum or in equal annual increments for the permit term and shall be determined as follows:
- 1) The permit fee for areas to be surface mined is ~~one-hundred-and-twenty-five-dollars-(\$125.00)~~ per bonded acre; ~~payable-as-a-lump sum-or-in-equal-annual-increments-for-the-permit-term;~~
 - 2) For all other areas within the permit area, for both surface and underground mines, the fee will be ~~five-dollars-(\$5.00)~~ per acre for each year the bond is in force.
- dc) If permit fees are submitted within 180 days after the date of the Department's written findings approving a permit application, such fees may be paid in accordance with subsection (c) ~~(b)~~-above. Permit fees which are not submitted within 180 days after the date of the Department's written findings approving a permit application shall be paid as a lump sum.
- ed) Failure to submit permit fees within ~~one-(1)~~ year after notification of the required fee amount ~~the-issuance-of-the-Department's-written~~

DEPARTMENT OF NATURAL RESOURCES
NOTICE OF PROPOSED AMENDMENT

~~findings approving a permit application under 62-111-Adm--Code 1773.15(c) shall result in the application being deemed null and void. The Department may issue an extension to this time limit if the applicant can demonstrate just cause for doing so. the expiration of these findings.~~

(Source: Amended at 26 Ill. Reg. _____, effective _____)

DEPARTMENT OF NATURAL RESOURCES
NOTICE OF PROPOSED AMENDMENT

- 1) Heading of the Part: Individual Civil Penalties
- 2) Code Citation: 62 Ill. Adm. Code 1846
- 3) Section Numbers: 1846.17
Proposed Action: Amend
- 4) Statutory Authority: Implementing and authorized by the Surface Coal Mining Land Conservation and Reclamation Act [225 ILCS 720].
- 5) A Complete Description of the Subjects and Issues Involved: This rule is being amended to remove the Department's address to preclude having to do a rule change every time the address changes.
- 6) Will this rulemaking replace any emergency rulemaking currently in effect?
No
- 7) Does this rulemaking contain an automatic repeal date? No
- 8) Do this proposed amendment contain incorporations by reference? No
- 9) Are there any other proposed amendments pending on this Part? No
- 10) Statement of Statewide Policy Objectives: This rulemaking does not affect units of local government.
- 11) Time, Place and Manner in which interested persons may comment on this proposed rulemaking: Comments on the proposed rulemaking may be submitted in writing for a period of 45 days following publication of this Notice to:

Karen Jacobs
Department of Natural Resources
524 S. Second Street
Springfield IL 62701-1787
217/782-1809

12) Initial Regulatory Flexibility Analysis:

- A) Types of small businesses, small municipalities and not for profit corporations affected: None
- B) Reporting, bookkeeping or other procedures required for compliance: None
- C) Types of professional skills necessary for compliance: None
- 13) Regulatory Agenda on which this rulemaking was summarized: This rulemaking

DEPARTMENT OF NATURAL RESOURCES

NOTICE OF PROPOSED AMENDMENT

was not included on either of the 2 most recent regulatory agendas because: The Department neglected to file a regulatory agenda on this Part.

The full text of the Proposed Amendment begins on the next page:

DEPARTMENT OF NATURAL RESOURCES

NOTICE OF PROPOSED AMENDMENT

TITLE 62: MINING

CHAPTER I: DEPARTMENT OF NATURAL RESOURCES

PART 1846

INDIVIDUAL CIVIL PENALTIES

Section

- 1846.1 Scope
- 1846.5 Definitions
- 1846.12 When an individual civil penalty may be assessed
- 1846.14 Amount of individual civil penalty
- 1846.17 Procedure for assessment of individual civil penalty
- 1846.18 Payment of penalty

AUTHORITY: Implementing and authorized by the Surface Coal Mining Land Conservation and Reclamation Act [225 ILCS 720].

SOURCE: Adopted at 14 Ill. Reg. 11825, effective January 1, 1991; amended at 17 Ill. Reg. 10997, effective July 1, 1993; recodified from the Department of Mines and Minerals to the Department of Natural Resources at 22 Ill. Reg. 7712; amended at 26 Ill. Reg. _____, effective _____.

Section 1846.17 Procedure for assessment of individual civil penalty.

- a) Notice. The Department shall serve on each individual to be assessed an individual civil penalty a notice of proposed individual civil penalty assessment, including a narrative explanation of the reasons for the penalty, the amount to be assessed, and a copy of any underlying notice of violation and cessation order.
- b) Final order and opportunity for review. The notice of proposed individual civil penalty assessment shall become a final administrative decision of the Department 30 days after service upon the individual unless:
 - 1) The individual files, within 30 days after of service of the notice of proposed individual civil penalty assessment, a petition for review with the Department's Springfield office Illinois--Department--of--Natural--Resources--Office-of-Mines-and-Minerals--and--Reclamation--Division--524--S--Second--Street--Springfield--Illinois--62761-1787, in accordance with 62 Ill. Adm. Code 1847.8; or
 - 2) The Department and the individual or responsible corporate permittee agree within 30 days after of service of the notice of proposed individual civil penalty assessment to a schedule or plan for the abatement or correction of the violation, failure or refusal.
- c) Service. For purposes of this Section, service is sufficient if it would satisfy the requirements of 62 Ill. Adm. Code 1843.14.

DEPARTMENT OF NATURAL RESOURCESDEPARTMENT OF NATURAL RESOURCES

NOTICE OF PROPOSED AMENDMENTNOTICE OF PROPOSED AMENDMENTS

- (Source: Amended at 26 Ill. Reg. _____, effective _____)
- 1) Heading of the Part: Permanent Program Performance Standards - Surface Mining Activities
- 2) Code Citation: 62 Ill. Adm. Code 1816
- 3) Section Numbers: Proposed Action:
1816.41 Amend
1816.113 Amend
1816.116 Amend
1816.117 Amend
1816.190 Amend
- 4) Statutory Authority: Implementing and authorized by the Surface Coal Mining Land Conservation and Reclamation Act [225 ILCS 720].
- 5) A Complete Description of the Subjects and Issues Involved:
Section 1816.41 is being amended to correct a regulatory citation.
Section 1816.113 is being amended to establish a time frame for the planting of trees and shrubs which does not currently exist.
Section 1816.116 is being amended to remove the Department's address to preclude having to do a rule change every time the address changes.
Section 1816.117 is being amended to add the standard for measuring revegetation success for areas reclaimed to herbaceous wildlife.
Section 1816.190 is being amended to require an area affected by auger mining to be shown on the annual affected acreage map.
- 6) Will this rulemaking replace any emergency rule currently in effect? No
- 7) Does this rulemaking contain an automatic repeal date? No
- 8) Do these proposed amendments contain incorporations by reference? No
- 9) Are there any other proposed amendments pending on this Part? No
- 10) Statement of Statewide Policy Objectives: This rulemaking does not affect units of local government.
- 11) Time, Place and Manner in which interested persons may comment on this proposed rulemaking: Comments on the proposed rulemaking may be submitted in writing for a period of 45 days following publication of this Notice to:

Karen Jacobs

DEPARTMENT OF NATURAL RESOURCES

NOTICE OF PROPOSED AMENDMENTS

Department of Natural Resources
524 S. Second Street
Springfield IL 62701-1787
217/782-1809

12) Initial Regulatory Flexibility Analysis:

A) Types of small businesses, small municipalities and not for profit corporations affected: None

B) Reporting, bookkeeping or other procedures required for compliance:
None

C) Types of professional skills necessary for compliance: None

13) Regulatory Agenda on which this rule was summarized: January 2001

The full text of the Proposed Amendments begins on the next page:

DEPARTMENT OF NATURAL RESOURCES

NOTICE OF PROPOSED AMENDMENTS

TITLE 62: MINING
CHAPTER I: DEPARTMENT OF NATURAL RESOURCES

PART 1816

PERMANENT PROGRAM PERFORMANCE STANDARDS - SURFACE MINING ACTIVITIES

Section	
1816.11	Signs and Markers
1816.13	Casing and Sealing of Drilled Holes: General Requirements
1816.14	Casing and Sealing of Drilled Holes: Temporary
1816.15	Casing and Sealing of Drilled Holes: Permanent
1816.21	Topsoil: General Requirements (Repealed)
1816.22	Topsoil and Subsoil
1816.23	Topsoil: Storage (Repealed)
1816.24	Topsoil: Redistribution (Repealed)
1816.25	Topsoil: Nutrients and Soil Amendments (Repealed)
1816.41	Hydrologic Balance Protection
1816.42	Hydrologic Balance: Water Quality Standards and Effluent Limitations
1816.43	Diversions
1816.44	Hydrologic Balance: Stream Channel Diversions (Repealed)
1816.45	Hydrologic Balance: Sediment Control Measures
1816.46	Hydrologic Balance: Siltation Structures
1816.47	Hydrologic Balance: Discharge of Structures
1816.48	Hydrologic Balance: Acid-Forming and Toxic-Forming Spoil (Repealed)
1816.49	Impoundments
1816.50	Hydrologic Balance: Ground Water Protection (Repealed)
1816.51	Hydrologic Balance: Protection of Ground Water Recharge Capacity (Repealed)
1816.52	Hydrologic Balance: Surface and Ground Water Monitoring (Repealed)
1816.53	Hydrologic Balance: Transfer of Wells (Repealed)
1816.54	Hydrologic Balance: Water Rights and Replacement (Repealed)
1816.55	Hydrologic Balance: Discharge of Water Into an Underground Mine (Repealed)
1816.56	Post-Mining Rehabilitation of Sedimentation Ponds, Diversions, Impoundments, and Treatment Facilities
1816.57	Hydrologic Balance: Stream Buffer Zones
1816.59	Coal Recovery
1816.61	Use of Explosives: General Requirements
1816.62	Use of Explosives: Pre-Blasting Survey
1816.64	Use of Explosives: Public Notice of Blasting Schedule
1816.65	Use of Explosives: Surface Blasting Requirements (Repealed)
1816.66	Use of Explosives: Blasting Signs, Warnings, and Access Control
1816.67	Use of Explosives: Control of Adverse Effects
1816.68	Use of Explosives: Records of Blasting Operations
1816.71	Disposal of Excess Spoil: General Requirements
1816.72	Disposal of Excess Spoil: Valley Fills/Head-of-Hollow Fills
1816.73	Disposal of Excess Spoil: Head-Of-Hollow Fills (Repealed)

DEPARTMENT OF NATURAL RESOURCES

NOTICE OF PROPOSED AMENDMENTS

- 1816.74 Disposal of Excess Spoil: Durable Rock Fills
- 1816.75 Disposal of Excess Spoil: Preexisting Benches
- 1816.79 Protection of Underground Mining
- 1816.81 Coal Mine Waste: General Requirements
- 1816.82 Coal Processing Waste Banks: Site Inspection (Repealed)
- 1816.83 Coal Mine Waste: Refuse Piles
- 1816.84 Coal Mine Waste: Impounding Structures
- 1816.85 Coal Processing Waste Banks: Construction Requirements (Repealed)
- 1816.86 Coal Processing Waste: Burning (Repealed)
- 1816.87 Coal Mine Waste: Burned Waste Utilization
- 1816.88 Coal Processing Waste: Return to Underground Workings (Repealed)
- 1816.89 Disposal of Noncoal Mine Wastes
- 1816.91 Coal Processing Waste: Dams and Embankments: General Requirements (Repealed)
- 1816.92 Coal Processing Waste: Dams and Embankments: Site Preparation (Repealed)
- 1816.93 Coal Processing Waste: Dams and Embankments: Design and Construction (Repealed)
- 1816.94 Coal Processing Waste: Time and Requirements for Completion of Covering (Repealed)
- 1816.95 Stabilization of Surface Areas
- 1816.97 Protection of Fish, Wildlife, and Related Environmental Values
- 1816.99 Slides and Other Damage
- 1816.100 Contemporaneous Reclamation
- 1816.101 Backfilling and Grading: General Requirements
- 1816.102 Backfilling and Grading: General Grading Requirements
- 1816.103 Backfilling and Grading: Covering or Treating Coal and Acid- and Toxic-Forming Materials (Repealed)
- 1816.104 Backfilling and Grading: Thin Overburden
- 1816.105 Backfilling and Grading: Thick Overburden
- 1816.106 Backfilling and Grading: Previously Mined Areas
- 1816.107 Backfilling and Grading: Steep Slopes
- 1816.111 Revegetation: General Requirements
- 1816.112 Revegetation: Use of Introduced Species (Repealed)
- 1816.113 Revegetation: Timing
- 1816.114 Revegetation: Mulching and Other Soil Stabilizing Practices
- 1816.115 Revegetation: Grazing (Repealed)
- 1816.116 Revegetation: Standards for Success
- 1816.117 Revegetation: Tree, and Shrub, and Herbaceous Wildlife Vegetation
- 1816.131 Cessation of Operations: Temporary
- 1816.132 Cessation of Operations: Permanent
- 1816.133 Post-Mining Land Capability
- 1816.150 Roads: General
- 1816.151 Primary Roads
- 1816.180 Utility Installations
- 1816.181 Support Facilities
- 1816.190 Affected Acreage Map
- APPENDIX A Agricultural Lands Productivity Formula

- EXHIBIT A County Crop Yields by Soil Mapping Unit
- TABLE A Subsoil Adjustments
- TABLE B Soil Variance Codes
- TABLE C County Numbering System
- TABLE D Sample Points Per Crop Acres
- TABLE E Soil Master Files (Repealed)
- TABLE F County Cropped Acreage File (Repealed)
- AUTHORITY: Implementing and authorized by the Surface Coal Mining Land Conservation and Reclamation Act [225 ILCS 720].

SOURCE: Adopted at 4 Ill. Reg. 37, p. 1, effective June 1, 1982; amended at 6 Ill. Reg. 1, effective June 1, 1982; amended at 6 Ill. Reg. 15024, effective December 30, 1982; codified at 8 Ill. Reg. 8224; amended at 9 Ill. Reg. 13310, effective October 10, 1985; amended at 10 Ill. Reg. 8985, effective July 1, 1986; amended at 11 Ill. Reg. 8131, effective July 1, 1987; amended at 14 Ill. Reg. 11830, effective January 1, 1991; amended at 15 Ill. Reg. 17166, effective January 1, 1992; amended at 17 Ill. Reg. 11001, effective July 1, 1993; amended at 20 Ill. Reg. 2027, effective January 19, 1996; amended at 22 Ill. Reg. 20228, effective November 5, 1998; amended at 24 Ill. Reg. 5967, effective March 21, 2000; amended at 26 Ill. Reg. _____, effective _____.

Section 1816.41 Hydrologic Balance Protection

- a) General. All surface mining and reclamation activities shall be conducted to minimize disturbance of the hydrologic balance within the permit and adjacent areas, to prevent material damage to the hydrologic balance outside the permit area, such as diminution of recharge capacity, to prevent violations of State and Federal water quality standards and effluent limitations, to assure the protection or replacement of water rights, and to support approved post-mining land uses in accordance with the terms and conditions of the approved permit and the performance standards of this Part. The Department shall require additional preventative, remedial, or monitoring measures to assure that material damage to the hydrologic balance outside the permit area is prevented if the current approved plan is not sufficient to achieve this protection. Mining and reclamation practices that minimize water pollution and changes in flow shall be used in preference to water treatment.
- b) Ground water protection. In order to protect the hydrologic balance, surface mining activities shall be conducted according to the plan approved under 62 Ill. Adm. Code 1780.21(h) and the following:
- 1) Ground water quality shall be protected by handling earth materials and runoff in a manner that minimizes acidic, toxic, or other harmful infiltration to ground water systems and by managing excavations and other disturbances to prevent or control the discharge of pollutants into the ground water.

DEPARTMENT OF NATURAL RESOURCES

NOTICE OF PROPOSED AMENDMENTS

- 2) Ground water quantity shall be protected by handling earth materials and runoff in a manner that will restore the approximate premining recharge capacity of the reclaimed area as a whole, excluding coal mine waste disposal areas and fills, so as to allow the movement of water to the ground water system.
- c) Ground water monitoring.

1) Ground water monitoring shall be conducted according to the ground water monitoring plan approved under 62 Ill. Adm. Code 1780.21(i). If unanticipated conditions develop, or if an approved operation or reclamation plan is modified or revised such that the current monitoring program would not detect possible adverse impacts to the hydrologic balance as a result of this change, then the Department shall require additional monitoring including, but not limited, to increased monitoring frequency, additional monitoring wells or changes in the number of parameters being monitored, when it is determined that the proposed, or approved, monitoring plan is not adequate to detect adverse impacts to the hydrologic balance.

2) Ground water monitoring data shall be submitted every ~~three~~-4 3+ months to the Department or more frequently as prescribed by the Department. Ground water monitoring reports shall be submitted by the first day of the second month following the reporting period, unless the Department specifies an alternative reporting schedule. Monitoring reports shall include analytical results from each sample taken during the reporting period. When the analysis of any ground water sample indicates noncompliance with the permit conditions, then the operator shall promptly notify the Department and immediately take the actions provided for in 62 Ill. Adm. Code 1773.17(e) and 1780.21(h).

3) Ground water monitoring shall proceed through mining and continue during reclamation until bond release. Consistent with the procedures of 62 Ill. Adm. Code 1774.13, the Department may modify the monitoring requirements when such changes to the approved plan do not diminish the ability to detect adverse impacts to the hydrologic balance, including the parameters covered and the sampling frequencies, if the operator demonstrates, using the monitoring data obtained under this subsection that:

A) The operation has minimized disturbance to the hydrologic balance in the permit and adjacent areas and prevented material damage to the hydrologic balance outside the permit area; water quality and quantity are suitable to support approved post-mining land uses; and the water rights of other users have been protected or replaced; or

B) Monitoring is no longer necessary to achieve the purposes set forth in the monitoring plan approved under 62 Ill. Adm. Code 1780.21.

4) Equipment, structures, and other devices used in conjunction with

DEPARTMENT OF NATURAL RESOURCES

NOTICE OF PROPOSED AMENDMENTS

monitoring the quality and quantity of ground water onsite and offsite shall be properly installed, maintained, and operated and shall be removed by the operator when no longer needed, except as provided for under subsection (g).

d) Surface water protection. In order to protect the hydrologic balance, surface mining activities shall be conducted according to the plan approved under 62 Ill. Adm. Code 1780.21(h)(4) and the following:

1) Surface water quality shall be protected by handling earth materials, ground water discharges, and runoff in a manner that minimizes the formation of acidic or toxic drainage; prevents, to the extent possible using the best technology currently available, additional contributions of suspended solids to streamflow outside the permit area; and otherwise prevents water pollution. If drainage control, revegetation and revegetation of disturbed areas, diversion of runoff, mulching, or other reclamation and remedial practices are not adequate to meet the requirements of this Section and Section 1816.42, the operator shall use and maintain the necessary water treatment facilities or water quality controls.

2) Surface water quantity and flow rates shall be protected by handling earth materials and runoff in accordance with the steps outlined in the plan approved under 62 Ill. Adm. Code 1780.21(h).

e) Surface water monitoring.

1) Surface water monitoring shall be conducted according to the surface water monitoring plan approved under 62 Ill. Adm. Code 1780.21(j). If unanticipated conditions develop, or if an approved operation or reclamation plan is modified or revised such that the current monitoring program would not detect possible adverse impacts to the hydrologic balance as a result of this change, then the Department shall require additional monitoring including, but not limited to, changes in the number of parameters or frequency of sample collection, when it is determined that the approved plan is not designed to detect adverse impacts to the hydrologic balance.

2) Surface water monitoring data shall be submitted to the Department every ~~three~~-4 3+ months, or more frequently as prescribed by the Department in those circumstances where a more frequent monitoring schedule is necessary to detect adverse impacts to the surface water system. This shall include, but not necessarily be limited to, copies of reports submitted for the National Pollutant Discharge Elimination System (NPDES) sent to the Illinois Environmental Protection Agency (EPA). Copies of NPDES reports shall be sent to the Department by the first day of the second month following the reporting period. Monitoring reports shall include analytical results from each sample taken during the reporting period. When the analytical results of any surface water sample indicates noncompliance with the permit conditions, the operator shall notify the Department within five

DEPARTMENT OF NATURAL RESOURCES

NOTICE OF PROPOSED AMENDMENTS

† 5+ days and immediately take the actions provided for in 62 Ill. Adm. Code 1773.17(e) and 1780.21(h). The reporting requirements of this paragraph do not exempt the operator from meeting any NPDES reporting requirements.

3) Surface water monitoring shall proceed through mining and continue until bond release. Consistent with 62 Ill. Adm. Code 1774.13, the Department may modify the monitoring requirements, except those required by the Illinois EPA, when such changes to the approved plan do not diminish the ability to detect adverse impacts to the hydrologic balance, including the parameters covered and sampling frequency if the operator demonstrates using the monitoring data that:

A) The operation has minimized disturbance to the hydrologic balance in the permit and adjacent areas and prevented material damage to the hydrologic balance outside the permit area; water quantity and quality are suitable to support approved post-mining land uses; and the water rights of other users have been protected or replaced; or

B) Monitoring is no longer necessary to achieve the purposes set forth in the monitoring plan approved under 62 Ill. Adm. Code 1780.21(j).

4) Equipment, structures, and other devices used in conjunction with monitoring the quality and quantity of surface water onsite and offsite shall be properly installed, maintained, and operated and shall be removed by the operator when no longer needed, except as provided for in Section 1816.49(b).

f) Acid- and toxic-forming materials.

1) Drainage from acid- and toxic-forming materials into surface water and ground water shall be avoided by:

A) Identifying and burying and/or treating, when necessary, materials which may adversely affect water quality, or be detrimental to vegetation or to public health and safety if not buried and/or treated, and

B) Storing materials in a manner that will protect surface water and ground water by preventing erosion, the formation of polluted runoff, and the infiltration of polluted water. Storage shall be limited to the period until burial and/or treatment first become feasible, and so long as storage will not result in any risk of water pollution or other environmental damage.

2) Storage, burial or treatment practices shall be consistent with other material handling and disposal provisions of Section 1816.102.

g) Before final release of bond, exploratory or monitoring wells shall be sealed in a safe and environmentally sound manner in accordance with Sections 1816.13 through 1816.15. With prior approval of the Department, wells may be transferred to another party for further use. At a minimum, the conditions of such transfer shall comply with State

DEPARTMENT OF NATURAL RESOURCES

NOTICE OF PROPOSED AMENDMENTS

and local law and the permittee shall remain responsible for the proper management of the well until bond release in accordance with Sections 1816.13 through 1816.15.

h) Any person who conducts surface mining activities shall replace the water supply of an owner of interest in real property who obtains all or part of his or her supply of water for domestic, agricultural, industrial, or other legitimate use from an underground or surface source, where the water supply has been adversely impacted by contamination, diminution, or interruption proximately resulting from the surface mining activities. Information used to determine the extent of the impact of mining upon ground water and surface water shall include, but not be limited to, baseline hydrologic information required in 62 Ill. Adm. Code 1780.21 and 1780.22.

i) Discharges into an underground mine.

1) Discharges into an underground mine are prohibited, unless specifically approved by the Department after a demonstration that the discharge will:

A) Minimize disturbance to the hydrologic balance on the permit area, prevent material damage outside the permit area and otherwise eliminate public hazards resulting from surface mining activities;

B) Not result in a violation of water quality standards or effluent limitations set forth in Section 1816.42;

C) Be at a known rate and quality which shall meet the effluent limitations of Section 1816.42 for pH and total suspended solids, except that the Department may allow pH and total suspended solids to exceed effluent limits so long they will not result in any adverse impacts to the hydrologic balance, and

D) Meet with the approval of the Mine Safety and Health Administration.

2) Discharges shall be limited to the following:

A) Water;

B) Coal processing waste;

C) Fly ash from a coal-fired facility;

D) Sludge from an acid-mine drainage treatment facility;

E) Flue-gas desulfurization sludge;

F) Inert materials used for stabilizing underground mines; and

G) Underground mine development wastes.

(Source: Amended at 26 Ill. Reg. _____, effective _____)

Section 1816.113 Revegetation: Timing

a) Disturbed areas shall be planted during the first normal period for favorable planting conditions after replacement of the plant-growth medium. The normal period for favorable planting is that planting time

DEPARTMENT OF NATURAL RESOURCES

NOTICE OF PROPOSED AMENDMENTS

watershed, pumping is used to maintain water levels, or neutralizing agents, chemical treatments or fertilizers are applied to the wetland area, except that wetlands managed as wildlife food plot areas using agricultural techniques shall not be considered augmented when normal agricultural husbandry practices, such as routine liming and fertilization, are used. Water level management using permanent water control structures is considered a normal husbandry practice.

G) Other Management Practices

The Department shall approve the use of deep tillage for prime farmland and high capability land as a beneficial practice that will not restart the 5 year period of responsibility, if the following conditions are met:

- i) The permittee has submitted a request to use the practice and has identified the field that will be deep tilled;
- ii) One or more hay crops, or other acceptable row crops, have been grown or will be grown to dry out the subsoil prior to deep tilling the field; and
- iii) The Department has determined that the use of deep tillage will be beneficial to the soil structure and long term crop production of the field and the benefits will continue well beyond the responsibility period.

The Department shall notify the permittee in writing of its decision. Such written notice shall be in the form of an inspection report or other document issued by the Department.

- 3) Ground cover and production shall be considered equal to the approved success standard when they are not less than 90% of the success standard. The sampling techniques for measuring success shall use a 90% statistical confidence interval (i.e., one-sided t test with a 0.10 alpha error). Vegetative ground cover shall be measured using the technique set forth in 62 Ill. Adm. Code 1816.117(d). Standards for success shall be applied in accordance with the approved post-mining land use and, at a minimum, the following conditions:

A) The vegetative ground cover for areas previously disturbed by mining operations that were not reclaimed to the requirements 62 Ill. Adm. Code 1810 through 1828 and that are remined or otherwise redisturbed by surface coal mining operations, shall not be less than the greater of 70% or the percentage of ground cover existing before redisturbance, and shall be adequate to control erosion during the last year of the responsibility period;

B) For areas to be developed for industrial, commercial or residential use less than 2 two years after regrading is

DEPARTMENT OF NATURAL RESOURCES

NOTICE OF PROPOSED AMENDMENTS

completed, the vegetative ground cover shall not be less than that required to control erosion and shall not be less than 70%;

- C) For areas designated in the approved reclamation plan as cropland, except those cropland areas subject to 62 Ill. Adm. Code 1823.15, success of revegetation of cropland areas shall be determined in accordance with subsection (a)(4). Crop production shall be considered successful if it is 90% of that crop production required in subsection (a)(4) with 90% statistical confidence (i.e., one-sided t test with a 0.10 alpha error) for a minimum of any 2 two crop years of a 10 ten year period prior to release of the performance bond, except the first year of the 5 five year responsibility period. During the extended 5 five year responsibility period, erosion from cropland must be minimized using equivalent or better management practices than surrounding unmined cropland. The 5 five year responsibility period shall begin after the last year of augmented seeding, fertilizing, or soil treatment and at the time of the planting of the crops ~~erpts~~ to be grown for the productivity showing or crops grown in rotation. Crop production for proof of productivity purposes shall be initiated within 10 ten years after completion of backfilling and final grading. All cropland shall be maintained using proper management practices as set forth in subsection (a)(2)(C) until the end of the responsibility period;
- D) For areas to be developed for fish and wildlife habitat (including shelter belts), recreation, or forest products land uses, success of revegetation shall be determined on the basis of tree and shrub populations and ground cover. The tree and shrub population and ground cover shall meet the standards described in Section 1816.117;
- E) For areas designated as pasture and/or hayland or grazing land in the approved reclamation plan, except for erosion control devices and other structures (i.e., levees, ditches, waterways, impounding structures, etc.) productivity success (tons of grasses and/or legumes per acre) shall be determined in accordance with subsection (a)(4). Productivity shall be considered successful if it is 90% of the productivity required in subsection (a)(4) with 90% statistical confidence (i.e., one-sided t test with a 0.10 alpha error) for a minimum of any 2 two crop years of a 10 ten year period prior to release of the performance bond, except the first year of the 5 five year extended responsibility period. All pasture, hayland and grazing land shall be maintained using proper management practices as set forth in subsection (a)(2)(C) until the end of the

DEPARTMENT OF NATURAL RESOURCES

NOTICE OF PROPOSED AMENDMENTS

responsibility period. Production for proof of productivity purposes shall be initiated within 10 ten years after completion of backfilling and final grading. Ground cover shall be considered successful if it is 90% with 90% statistical confidence (i.e., one sided t test with a 0.10 alpha error) for a minimum of any 2 two years of a 10 ten year period prior to the release of the performance bond, except the first year of the 5 five year extended responsibility period. On high capability land, the Department shall allow the permittee to substitute corn production for hay production. If determined to be a proper management practice in accordance with subsection (a)(2)(C), the Department shall allow the permittee to substitute one year of crop production of an allowable crop specified in subsection (a)(4)(D) for one year of hay production on limited capability land;

F) Non-contiguous areas less than or equal to 4 four acres which were disturbed from activities such as, but not limited to, signs, boreholes, power poles, stockpiles and substations shall be considered successfully revegetated if the permittee can demonstrate that the soil disturbance was minor, i.e., the majority of the subsoil remains in place, the soil has been returned to its original capability and the area is supporting its approved post-mining land use at the end of the responsibility period.

4) In order to use the Agricultural Lands Productivity Formula, Appendix A of this Part, to determine success of revegetation, the following shall apply:

A) The permittee shall submit annually, by February 15, a one inch equals 500 feet or larger scale drawing or aerial photograph delineating:

i) Field boundaries, a field numbering scheme and the total acreage for each field which will be cropped to demonstrate proof of productivity for the coming crop year. The Department shall approve such submittal if the information is correct and accurate. Once field boundaries are established in a submittal, the boundaries shall not be changed without recommencing the responsibility period, unless the submittal is amended in accordance with subsection (a)(4)(A)(ii); and

ii) The crop (e.g., hay, wheat, corn, soybeans, sorghum, etc.) which will be grown on each field to demonstrate proof of productivity for the coming crop year. The permittee may amend its scale drawing in accordance with 62 Ill. Adm. Code 1774.13(b)(2) until July 15 of the submittal year. Each such amendment shall contain a written explanation of changes from the original

DEPARTMENT OF NATURAL RESOURCES

NOTICE OF PROPOSED AMENDMENTS

submittal and include a map reflecting the changes. A field is an area of land reclaimed by a single reclamation technique that comprises either high capability land or prime farmland or limited capability pasture land. The size of the field and its boundaries are determined by such factors which include, but are not limited to, contour, non-cropped boundaries and size of farming equipment.

B) Fields identified in subsection (a)(4)(A) to be measured for success of revegetation for cropland shall be planted annually to a single approved crop. The sampling method of Appendix A shall apply. Soil and water conservation practices approved in the permit application including but not limited to grass waterways, diversion ditches, contour grass strips, and sedimentation ponds within the boundaries of a field shall be excluded from the sampling requirements of Section 1816. Appendix A and shall remain vegetated with permanent ground cover species, where appropriate, to conserve soil and water resources. Subject to rulemaking, the Department in cooperation with the Illinois Department of Agriculture may determine if a portion of a field is a representative sample of the entire field when technology has developed to make it possible through physical and chemical agronomic testing to demonstrate success of revegetation through soil surveys or when statistically valid sampling procedures are developed for determining success of revegetation based upon cropping and sampling a representative portion of the field.

C) Adjustments for abnormal growing conditions shall be made if such adjustments are certified by a crop adjuster certified to perform adjustments by the Federal Crop Insurance Corporation. At the request of a permittee, the Department of Agriculture shall make arrangements for such an appraisal or adjustment review. Before any such an appraisal or adjustment shall be arranged, the permittee shall file with the Illinois Department of Agriculture an agreement to pay the full cost of any crop adjustment or appraisal so requested.

D) The crops to be grown shall include those commonly grown on surrounding unmined cropland such as corn, soybeans, hay, sorghum, wheat, or oats. The Department may approve a hay crop use where this is a common use of unmined cropland in the surrounding area. Prime farmland and other cropland areas must include a minimum of one successful year of corn and if the Department has approved its use a maximum of one successful year each of hay, wheat and oat crops.

5) Wetland revegetation shall be deemed successful when:

A) The wetland vegetation criteria in the Corps of Engineers

DEPARTMENT OF NATURAL RESOURCES

NOTICE OF PROPOSED AMENDMENTS

Wetlands Delineation Manual (Department of the Army Technical Report Y-87-1, January 1987, published by the Department of the Army, Waterways Experiment Station, Corps of Engineers, P.O. Box 631, Vicksburg, Mississippi 39180-0631) have been achieved following sampling procedures specified in that manual, which does not include any later amendments or editions and is available for inspection and copying at the Department's Springfield office located at 54-S--Second-Street--Springfield--Illinois--62701-1797; and

B) Areas designed to support vegetation in the approved plan shall have a minimum areal coverage of 30%. The testing procedure in Section 1816.117(d)(1) through (3) shall be used to evaluate the extent of cover. Areal cover shall be determined to be present if any approved wetland species is measured at the increment. The percentage of areal cover shall be established for the area tested by taking the total number of measurements where areal cover was determined to be present.

b) The person who conducts surface mining activities shall:

- 1) Conduct periodic measurements of vegetation, soils, and water prescribed or approved by the Department, to identify if remedial actions are necessary during the applicable period of liability specified in subsection (a); and
- 2) Initiate a soil compaction and fertility testing plan, subject to the approval of the Department, for areas that have incurred five unsuccessful attempts to meet the production required by subsection (a)(3)(C) or (E) or 62 Ill. Adm. Code 1823.15, or shall initiate deep tillage on the areas.
- 3) Permittees shall submit by February 15 of each year a report of reclamation activities conducted during the previous calendar year, which initiate or may alter the responsibility period or are specifically required by the Department to evaluate a normal husbandry practice, using forms provided by the Department. Examples of reclamation activities to be reported and/or evaluated include but are not limited to crops used in temporary and permanent seedings, grasses and legumes planted, trees and shrubs planted, soil amendments added, and location and type of augmentation activities. The forms shall be submitted with a copy of the approved post-mining land use and capability map depicting the location of such activities. The map shall be planned as a continuous map so the reclamation activities conducted each year may be added and indicated on the map by the dates the activities were conducted.

(Source: Amended at 26 Ill. Reg. _____, effective _____)

Section 1816.117 Revegetation: Tree, and Shrub, and Herbaceous Wildlife

DEPARTMENT OF NATURAL RESOURCES

NOTICE OF PROPOSED AMENDMENTS

Vegetation

a) For areas to be developed for fish and wildlife habitat (including shelter belts), recreation, or forest products land uses, success of revegetation shall be determined on the basis of tree and shrub population and vegetative ground cover. Such parameters are described as follows:

- 1) Trees and shrubs that will be used in determining the success of vegetation and the adequacy of plant arrangement shall have utility for the approved post-mining land use. Tree and/or shrub population shall be considered successful if it meets the population required in subsection (b) below with 90% statistical confidence (i.e., one-sided t test with a 0.10 alpha error) during the fifth year of the responsibility period or later in the responsibility period. On lands eligible for re-mining, the period of responsibility (until September 30, 2004) shall be two full years. Trees and shrubs counted in determining such success shall be healthy, e.g., not demonstrating abnormal growth, coloring, leaf drop or disease. At the time of bond release such trees and shrubs shall be alive, and shall have been in place for at least three growing seasons, i.e., three years. Until September 30, 2004, on lands eligible for re-mining, trees and shrubs need not have been in place for three years; however, such trees and shrubs shall not be counted in determining success during the same calendar year in which they were planted.

2) Vegetative ground cover shall not be less than required to achieve the approved post-mining land use and shall be adequate to control erosion and shall not be less than 70% during the last year of the responsibility period.

3) Permanent roads, parking lots and similar impervious structures on the revegetated area shall not require the planting of trees and shrubs or herbaceous ground cover. Erosion control structures, including pond embankments, shall not require the planting of trees and shrubs.

4) For purposes of this Section, herbaceous species means grasses, legumes and nonleguminous forbs; woody plants means woody shrubs, trees and vines; and ground cover means the area of ground covered by the combined aboveground parts of vegetation and the litter that is produced naturally on site.

5) For purposes of this Section, normal husbandry and conservation practices shall include pruning, disease, pest, vermin and herbaceous vegetation control including mowing, replanting, and fill and gully repairs. The replanting of trees and shrubs in areas described in Section 62-III--Adm--Code 1816.116(a)(2)(C) shall be limited to 20% of the original approved planting rate during the first year of the responsibility period and 10% of the original approved planting rate during the second year of the

DEPARTMENT OF NATURAL RESOURCES

NOTICE OF PROPOSED AMENDMENTS

responsibility period. The repair of rills and gullies shall be limited to those approved as a normal conservation practice under Section 62-111--Adm--Code 1816.116(a)(2)(C), (D) and (E).

b) For areas where woody plants are used for fish and wildlife habitat (including shelter belts), or recreation land uses, the area shall have a minimum population of 250 trees or shrubs per acre. Plantings arrangements such as hedgerows, border plantings, clump plantings, shelterbelts, and open herbaceous areas which increase diversity within wildlife areas may be approved by the Department on a case-by-case basis prior to planting such areas. Where woody plants are used for forest products land uses, the area shall have a minimum population of 450 trees or shrubs per acre.

c) For areas planted to trees or shrubs including wildlife habitat (including shelter belts), recreation, and forest products land uses, the sampling procedure for measuring populations is described as follows:

1) The permittee shall submit a scale drawing or aerial photograph delineating the fields ~~fields~~ to be sampled and the total number of acres in each field. A one inch equals 500 feet or larger scale shall be used. Once field boundaries are established in a submittal, the boundaries shall not be changed unless the Department approves a request in accordance with 62 Ill. Adm. Code 1774.13.

2) One of the following circular plot sizes shall be selected by the sample enumerator:

Plot Size/Acres	Radius/Feet
1/160	9.31
1/120	10.75
1/100	11.78
1/90	12.41
1/80	13.17
1/70	14.07
1/60	15.20
1/50	16.65
1/40	18.61
1/30	21.50
1/20	26.33
1/10	37.24
1/5	52.66
1/4	58.88

3) The number of plots needed to sample 2.5% of the area will be calculated employing the following formula:

Number of Plots equals 2.5% multiplied by Sample Area in acres divided by plot size.

DEPARTMENT OF NATURAL RESOURCES

NOTICE OF PROPOSED AMENDMENTS

4) Based on the number of plots needed to be sampled and plot size, locate transect lines an equal distance apart throughout the area to be sampled. Position individual plots an equal distance apart along transect lines. Determine the total length of all transect lines combined and then divide by the total number of plots needed to be sampled. When an individual plot is positioned within 60 feet of the boundary of the area to be sampled, the location of the plot shall be moved perpendicular to the transect line until the plot is 60 feet from the boundary of the area to be sampled or the greatest distance possible where 60 feet cannot be achieved.

5) Sample each plot for compliance with subsections (a)(1) and (b) and record live trees and/or shrubs and species.

6) Calculate population levels as follows:

- A) Average number of live trees and/or shrubs per plot equals total number of live trees and/or shrubs divided by number of plots; and
- B) Number of live trees and/or shrubs per acre equals average number of live trees and/or shrubs per plot multiplied by plot size denominator.

7) Representatives of the Department shall administer all sampling.

d) Vegetative ground cover shall be measured by the following technique:

1) Twenty random points shall be identified in the area to be tested.

2) A 20 foot engineer's tape shall be extended directly south of each point. If the tape extends beyond the boundary of the area to be tested or extends into an area where herbaceous ground cover has been controlled with herbicides to minimize competition with woody plants, the tape shall be rotated in 90 degree increments until the entire 20 feet length is within the boundary of the area to be tested or area not treated with the herbicide.

3) A measurement shall be taken at each .2 foot increment directly above or below the tape.

4) Ground cover shall be determined to be present if any vegetation identified in subsection Section-1816-117(a)(4) is measured at the increment.

5) A percentage of ground cover shall be established for the area tested by taking the total number of measurements where ground cover was determined to be present.

e) For areas where herbaceous vegetation plants are used for fish and wildlife habitat (including shelterbelts), or recreation land uses, vegetative ground cover of approved species shall not be less than required to achieve the approved post-mining land use and shall be adequate to control erosion and shall not be less than 70% during the last year of the responsibility period. Planting arrangements such as hedgerows, border plantings, clump plantings, shelterbelts, and open herbaceous areas that increase diversity within wildlife areas may be approved by the Department on a case-by-case basis prior to planting

DEPARTMENT OF NATURAL RESOURCES

NOTICE OF PROPOSED AMENDMENTS

those areas.

(Source: Amended at 26 Ill. Reg. _____, effective _____)

Section 1816.190 Affected Acreage Map

- a) On or before September 1 of each year every permit holder shall submit to the Department reports and maps of affected areas.
- b) Two (2) copies, plus one (1) additional copy for each county in which the permit is located, of the reports and maps shall be submitted showing the area affected during the fiscal year just ended and the extent of any auger mining. One of the copies submitted shall contain the original signature of a company official. The Department shall require the map to be executed by an engineer registered in accordance with the Professional Engineering Practice Act of 1989 [225 ILCS 325] or a land surveyor registered in accordance with the Illinois Professional Land Surveyor Act of 1989 [225 ILCS 330]. The Department shall then forward one copy to the county clerk.
- c) The map shall be planned as a continuous map, so that the area affected each year may be added and indicated on the map by the dates it was affected. Reports as required by Section 1816.190 shall be submitted to the Department on forms provided by the Department. Map scales shall be in accordance with 62 Ill. Adm. Code 1779.25.
- d) All maps shall show sections, township, range and county lines coming within the scope of the map; access to the area from the nearest public road and all weather roads within the mined area; and a title containing name of the operator, address, scale of the map, by whom the map was drawn, name of the surveyor or engineer.

(Source: Amended at 26 Ill. Reg. _____, effective _____)

DEPARTMENT OF NATURAL RESOURCES

NOTICE OF PROPOSED AMENDMENTS

- 1) Heading of the Part: Permanent Program Performance Standards--Underground Mining Operations

- 2) Code Citation: 62 Ill. Adm. Code 1817

- 3) Section Numbers:
1817.64 Amend
1817.66 Amend
1817.113 Amend
1817.116 Amend
1817.117 Amend

- 4) Statutory Authority: Implementing and authorized by the Surface Coal Mining Land Conservation and Reclamation Act [225 ILCS 720].

- 5) A Complete Description of the Subjects and Issues Involved:

Sections 1817.64 and 1817.66 concerning the use of explosives are being amended to make the Illinois regulations more consistent with the language in the federal regulations at 30 CFR 817.64(c) and 817.66.

Section 1817.113 is being amended to establish a time frame for the planting of trees and shrubs which does not currently exist.

Section 1817.116 is being amended to remove the Department's address to preclude having to do a rule change every time the address changes.

Section 1817.117 is being amended to add a standard for measuring revegetation success for areas reclaimed to herbaceous wildlife.

- 6) Will this rulemaking replace any emergency rule currently in effect? No

- 7) Does this rulemaking contain an automatic repeal date? No

- 8) Do these proposed amendments contain incorporations by reference? No

- 9) Are there any other proposed amendments pending on this Part? No

- 10) Statement of Statewide Policy Objectives: This rulemaking does not affect units of local government.

- 11) Time, Place and Manner in which interested persons may comment on this proposed rulemaking: Comments on the proposed rulemaking may be submitted in writing for a period of 45 days following publication of this Notice to:

Karen Jacobs
Department of Natural Resources

DEPARTMENT OF NATURAL RESOURCES

NOTICE OF PROPOSED AMENDMENTS

1817.73 Disposal of Underground Development Waste and Excess Spoil:
Head-of-Hollow Fills (Repealed)

1817.74 Disposal of Excess Spoil: Durable Rock Fills

1817.75 Disposal of Excess Spoil: Preexisting Benches

1817.81 Coal Mine Waste: General Requirements

1817.82 Coal Processing Waste Banks: Site Inspection (Repealed)

1817.83 Coal Mine Waste: Refuse Piles

1817.84 Coal Mine Waste: Impounding Structures

1817.85 Coal Processing Waste Banks: Construction Requirements (Repealed)

1817.86 Coal Processing Waste: Burning (Repealed)

1817.87 Coal Mine Waste: Burning and Burned Waste Utilization

1817.88 Coal Processing Waste: Return to Underground Workings (Repealed)

1817.89 Disposal of Noncoal Mine Wastes

1817.91 Coal Processing Waste: Dams and Embankments: General Requirements (Repealed)

1817.92 Coal Processing Waste: Dams and Embankments: Site Preparation (Repealed)

1817.93 Coal Processing Waste: Dams and Embankments: Design and Construction (Repealed)

1817.94 Coal Processing Waste: Time Requirement for Completion of Covering (Repealed)

1817.95 Stabilization of Surface Areas

1817.97 Protection of Fish, Wildlife and Related Environmental Values

1817.99 Slides and Other Damage

1817.100 Contemporaneous Reclamation and Subsidence Control

1817.101 Backfilling and Grading: General Requirements

1817.102 Backfilling and Grading: General Grading Requirements

1817.103 Backfilling and Grading: Covering Coal and Acid- and Toxic-forming Materials (Repealed)

1817.106 Backfilling and Grading: Previously Mined Areas

1817.107 Backfilling and Grading: Steep Slopes

1817.111 Revegetation: General Requirements

1817.112 Revegetation: Use of Introduced Species (Repealed)

1817.113 Revegetation: Timing

1817.114 Revegetation: Mulching and Other Soil Stabilization Practices

1817.115 Revegetation: Grazing (Repealed)

1817.116 Revegetation: Standards for Success

1817.117 Revegetation: Tree, and Shrub, and Herbaceous Vegetation

1817.121 Subsidence Control

1817.122 Subsidence Control: Public Notice

1817.124 Subsidence Control: Surface Owner Protections (Repealed)

1817.126 Subsidence Control: Buffer Zones (Repealed)

1817.131 Cessation of Operations: Temporary

1817.132 Cessation of Operations: Permanent

1817.133 Post-Mining Land Capability

1817.150 Roads: General

1817.151 Primary Roads

1817.180 Utility Installations

DEPARTMENT OF NATURAL RESOURCES

NOTICE OF PROPOSED AMENDMENTS

1817.181 Support Facilities

1817.182 Minor Underground Mine Facilities Not at or Adjacent to the Processing or Preparation Facility or Area

1817.190 Affected Acreage Map

AUTHORITY: Implementing and authorized by the Surface Coal Mining Land Conservation and Reclamation Act [225 ILCS 720].

SOURCE: Adopted at 4 Ill. Reg. 37, p. 1, effective June 1, 1982; amended at 6 Ill. Reg. 1, effective June 1, 1982; amended at 6 Ill. Reg. 15024, effective December 30, 1982; codified at 8 Ill. Reg. 8230; amended at 9 Ill. Reg. 13315, effective October 10, 1985; amended at 10 Ill. Reg. 9606, effective July 1, 1986; amended at 11 Ill. Reg. 8250, effective July 1, 1987; amended at 14 Ill. Reg. 11855, effective January 1, 1991; amended at 15 Ill. Reg. 17239, effective January 1, 1992; amended at 17 Ill. Reg. 11031, effective July 1, 1993; amended at 20 Ill. Reg. 1993, effective January 19, 1996; amended at 22 Ill. Reg. 20197, effective November 5, 1998; amended at 24 Ill. Reg. 5938, effective March 21, 2000; amended at 26 Ill. Reg. _____, effective _____.

Section 1817.64 Use of Explosives: General Performance Standards

- a) The operator shall notify, in writing, residents within ~~one-half-~~ 1/2¹/₂ mile of the blasting site, the Department, and local governments of the proposed times and locations of blasting operations. Such notice of times that blasting is to be conducted may be announced weekly, but in no case less than ~~twenty-four-~~ 24 hours before blasting will occur.
- b) Unscheduled blasting may be conducted only where public or operator health and safety so require. When an operator conducts an unscheduled blast, the operator, using audible warning signals, shall notify residents within ~~one-half-~~ 1/2¹/₂ mile of the blasting site and document the reason(s) for the unscheduled blast in accordance with subsection 1817.68(a)(17).
- c) All blasting shall be conducted between sunrise and sunset ~~unless nighttime blasting is approved by the Department based upon a showing by the operator that the public will be protected from adverse noise and other impacts.~~ Protection from adverse noise may include alternatives to the audible warning requirement specified in Section 1817.66(b). The Department may specify more restrictive time periods for blasting. ~~The Department shall limit the area covered by timing and sequence of blasting as listed in the schedule, if such limitations are necessary and reasonable in order to protect public health, safety or welfare.~~

(Source: Amended at 26 Ill. Reg. _____, effective _____.)

DEPARTMENT OF NATURAL RESOURCES

NOTICE OF PROPOSED AMENDMENTS

Section 1817.66 Use of Explosives: Blasting Signs, Warnings, and Access Control

a) Blasting signs shall meet the specifications of Section 1817.11. The operator shall:

1) Conspicuously display signs reading "Blasting Site" along the edge of any blasting site that comes within 100 feet of any public road right-of-way, and at the point where any other road provides access to the blasting site; and

2) At all entrances to the permit area from public roads or highways, place conspicuous signs which state "Warning! Explosives in Use" and which clearly list and describe the meaning of the audible blast warning and all-clear signals that are in use, and which explain the marking of blasting sites and charged holes awaiting firing within the permit area.

b) Warning and all-clear signals of different character or pattern that are audible within 1/2 one-half mile of the blast shall be given. Each person within the permit area and each person who resides or regularly works within 1/2 one-half mile of the permit area shall be notified of the meaning of the signals in the blasting notification required in Section 1817.64. ~~The requirement to supply daily notice may be fulfilled by the audible warning signals.~~

c) Access to the blasting site shall be controlled to prevent the presence of livestock or unauthorized personnel during blasting and until an authorized representative of the person who conducts the surface mining activities has reasonably determined:

1) That no unusual circumstances, such as imminent slides or undetonated charges, exist; and

2) That access to and travel in or through the site can be safely resumed.

d) Blasting prohibitions

1) Blasting shall not be conducted within 300 feet of any building used as a dwelling unless waived by the owner or within 300 feet of a school, church, hospital, or nursing facility.

2) Blasting shall not be conducted within 100 feet of facilities including, but not limited to, disposal wells, petroleum or gas storage facilities, municipal water storage facilities, fluid-transmission pipelines, or water and sewage lines unless a waiver is obtained from the owner of the facility and submitted to the Department prior to blasting within 100 feet.

(Source: Amended at 26 Ill. Reg. _____, effective _____)

Section 1817.113 Revegetation: Timing

a) Disturbed areas shall be planted during the first normal period for favorable planting conditions after replacement of the plant-growth

DEPARTMENT OF NATURAL RESOURCES

NOTICE OF PROPOSED AMENDMENTS

medium. The normal period for favorable planting is that planting time generally accepted locally for the type of plant materials selected.

b) When the approved reclamation plan includes the planting of trees and/or shrubs, the trees and/or shrubs shall be planted within two years after replacement of the plant-growth medium.

(Source: Amended at 26 Ill. Reg. _____, effective _____)

Section 1817.116 Revegetation: Standards for Success

a) Success of Revegetation

1) Success of revegetation shall be judged in accordance with this Section 1817.116 and Section 1817.117.

2) Requirements

A) The period of extended responsibility for successful revegetation shall begin after the last year of augmented seeding, fertilizing, irrigation, or other work, excluding husbandry practices that are approved by the Department in accordance with subsection (a)(2)(C) below.

B) The period of extended responsibility shall continue for a period of not less than 5 five full years, except that on lands eligible for reining, the period of responsibility (until September 30, 2004) shall be 2 two full years. Vegetation parameters identified in subsection (a)(1) above shall equal or exceed the approved standard set forth in subsection (a)(3) below.

C) The Department shall approve selective husbandry practices, excluding irrigation or augmented seeding or augmented fertilization, without extending the period of responsibility for revegetation success and bond liability, if such practices can be expected to continue as part of the post-mining land use or if discontinuance of the practices after the liability period expires will not reduce the probability of permanent revegetation success. Approved practices shall be normal conservation and land use management practices within the region for unmined lands having land uses similar to the approved post-mining land use of the disturbed area, including such practices as diseases, pest, and vermin control; any pruning, reseeding and/or transplanting specifically necessitated by such actions; approved agricultural practices described in the Illinois Agronomy Handbook (1993-94); and those practices which are a part of an approved conservation plan subject to the Food, Agriculture, Conservation and Trade Act of 1990 (7 USC 1421 et seq.). On all lands with a post-mining land use other than cropland, any areas reseeded or replanted as a

DEPARTMENT OF NATURAL RESOURCES

NOTICE OF PROPOSED AMENDMENTS

part or result of a normal husbandry practice must be sufficiently small in size and limited in extent of occurrence, or part of a hay management plan which is an agricultural practice described by the Illinois Agronomy Handbook or as part of an approved conservation plan subject to the Food, Agriculture, Conservation and Trade Act of 1990, and the reestablished vegetation must be in place for a sufficient length of time so as not to adversely affect the Department's ability to make a valid determination at the time of bond release as to whether the site has been properly reclaimed to a condition in which it will support a diverse, effective, permanent vegetative cover of the required nature and productivity. The Illinois Agronomy Handbook is published by the University of Illinois-Cooperative Extension Service, Office of Agricultural Communications and Education, 69E Mumford Hall, 1301 West Gregory Drive, Urbana, Illinois 61801. Copies of the Illinois Agronomy Handbook and the Food, Agriculture, Conservation and Trade Act of 1990 are available at the Department's Springfield office located at 524--S--Second Street--Springfield--Illinois--62701-1997.

- D) Rill and gully repair on cropland-capable reclaimed land will not be considered augmentation if an operator has an approved erosion control plan in place in the field pursuant to 62 Ill. Adm. Code 1823.14(g) or 1825.14(f), and shortly after the first rainfall event after the repair, the Department makes the following determinations:
- i) the area is a minor erosional feature;
 - ii) the area is small;
 - iii) the erosion is not expected to recur; and
 - iv) the area is stable.

The Department shall notify the permittee in writing whether or not a repair is augmentative. Such written notice shall be in the form of an inspection report or other document issued by the Department.

- E) Rill and gully repair on noncropland-capable land will not be considered augmentation if, shortly after the first rainfall event after the repair, the Department makes the following determinations:

- i) the area is a minor erosional feature;
- ii) the area is small;
- iii) the erosion is not expected to recur; and
- iv) the area is stable.

The Department shall notify the permittee in writing whether or not a repair is augmentative. Such written notice shall be in the form of an inspection report or other document issued by the Department.

- F) Augmentation

DEPARTMENT OF NATURAL RESOURCES

NOTICE OF PROPOSED AMENDMENTS

Wetlands shall be considered augmented when significant alterations are made to the size or character of the watershed, pumping is used to maintain water levels, or neutralizing agents, chemical treatments or fertilizers are applied to the wetland area, except that wetlands managed as wildlife food plot areas using agricultural techniques shall not be considered augmented when normal agricultural husbandry practices, such as routine liming and fertilization, are used. Water level management using permanent water control structures is considered a normal husbandry practice.

G) Other Management Practices

The Department shall approve the use of deep tillage for prime farmland and high capability land as a beneficial practice that will not restart the 5 year period of responsibility, if the following conditions are met:

- i) The permittee has submitted a request to use the practice and has identified the field that will be deep tilled;
- ii) One or more hay crops, or other acceptable row crops, have been grown or will be grown to dry out the subsoil prior to deep tilling the field; and
- iii) The Department has determined that the use of deep tillage will be beneficial to the soil structure and long term crop production of the field and the benefits will continue well beyond the responsibility period.

The Department shall notify the permittee in writing of its decision. Such written notice shall be in the form of an inspection report or other document issued by the Department.

- 3) Ground cover and production shall be considered equal to the approved success standard when they are not less than 90% of the success standard. The sampling techniques for measuring success shall use a 90% statistical confidence interval (i.e., one-sided t test with a 0.10 alpha error). Vegetative ground cover shall be measured using the technique set forth in 62 Ill. Adm. Code 1817.117(d). Standards for success shall be applied in accordance with the approved post-mining land use and, at a minimum, the following conditions:

- A) The vegetative ground cover for areas previously disturbed by mining operations that were not reclaimed to the requirements of 62 Ill. Adm. Code 1800 through 1828, and that are mined or otherwise redisturbed by surface coal mining operations, shall not be less than the greater of 70% or the percentage of ground cover existing before redisturbance, and shall be adequate to control erosion during the last year of the responsibility period;

DEPARTMENT OF NATURAL RESOURCES

NOTICE OF PROPOSED AMENDMENTS

- B) For areas to be developed for industrial, commercial or residential use less than 2 ~~two~~ years after regrading is completed, the vegetative ground cover shall not be less than that required to control erosion and shall not be less than 70%;
- C) For areas designated in the approved reclamation plan as cropland, except those cropland areas subject to 62 Ill. Adm. Code 1823.15, success of revegetation of cropland areas shall be determined in accordance with 62 Ill. Adm. Code 1816.116(a)(4). Crop production shall be considered successful if it is 90% of that crop production required in 62 Ill. Adm. Code 1816.116(a)(4) with 90% statistical confidence (i.e., one-sided t test with a 0.10 alpha error) for a minimum of any 2 ~~two~~ crop years of a 10 year period prior to release of the performance bond, except the first year of the 5 ~~five~~ year responsibility period. During the extended 5 ~~five~~ year responsibility period, erosion from cropland must be minimized using equivalent or better management practices than surrounding unmined cropland. The 5 ~~five~~ year responsibility period shall begin after the last year of augmented seeding, fertilizing, or soil treatment and at the time of the planting of the crops ~~crepts~~ to be grown for the productivity showing or crops grown in rotation. Crop production for proof of productivity purposes shall be initiated within 10 years after completion of backfilling and final grading. All cropland shall be maintained using proper management practices as set forth in subsection (a)(2)(C) until the end of the responsibility period;
- D) For areas to be developed for fish and wildlife habitat (including shelter belts), recreation, or forest products land uses, success of revegetation shall be determined on the basis of tree and shrub populations and ground cover. The tree and shrub population and ground cover shall meet the standards described in Section 1817.117;
- E) For areas designated as pasture and/or hayland or grazing land in the approved reclamation plan, except for erosion control devices and other structures (i.e., levees, ditches, waterways, impounding structure, etc.) productivity success (tons of grasses and/or legumes per acre) shall be determined in accordance with 62 Ill. Adm. Code 1816.116(a)(4). Productivity shall be considered successful if it is 90% of the productivity required in 62 Ill. Adm. Code 1816.116(a)(4) with 90% statistical confidence (i.e., one-sided t test with a 0.10 alpha error) for a minimum of any 2 ~~two~~ crop years of a 10 year period prior to

DEPARTMENT OF NATURAL RESOURCES

NOTICE OF PROPOSED AMENDMENTS

- release of the performance bond, except the first year of the 5 ~~five~~ year extended responsibility period. All pasture, hayland and grazing land shall be maintained using proper management practices as set forth in subsection (a)(2)(C), until the end of the responsibility period. Production for proof of productivity purposes shall be initiated within 10 ~~ten~~ years after completion of backfilling and final grading. Ground cover shall be considered successful if it is 90% with 90% statistical confidence (i.e., one sided t test with a 0.10 alpha error) for a minimum of any 2 ~~two~~ years of a 10 ~~ten~~ year period prior to the release of the performance bond, except the first year of the 5 ~~five~~ year extended responsibility period. On cropland-capable land, the Department shall allow the permittee to substitute corn production for hay production. If determined to be a proper management practice in accordance with subsection (a)(2)(C), the Department shall allow the permittee to substitute one year of crop production of an allowable crop specified in 62 Ill. Adm. Code 1816.116(a)(4)(D) for one year of hay production on limited capability land; and
- F) Non-contiguous areas less than or equal to 4 ~~four~~ acres which were disturbed from activities such as, but not limited to, signs, boreholes, power poles, stockpiles and substations shall be considered successfully revegetated if the operator can demonstrate that the soil disturbance was minor, i.e., the majority of the subsoil remains in place, the soil has been returned to its original capability and the area is supporting its approved post-mining land use at the end of the responsibility period.
- 4) In order to use the Agricultural Lands Productivity Formula, 62 Ill. Adm. Code 1816.Appendix A, to determine success of revegetation, the requirements of 62 Ill. Adm. Code 1816.116(a)(4) shall apply.
- 5) Wetland revegetation shall be deemed successful when:
- A) The wetland vegetation criteria in the Corps of Engineers Wetlands Delineation Manual (Department of the Army Technical Report Y-87-1, January 1987, published by the Department of the Army, Waterways Experiment Station, Corps of Engineers, P.O. Box 631, Vicksburg, Mississippi 39180-0631) have been achieved following sampling procedures specified in that manual, which does not include any later amendments or editions and is available for inspection and copying at the Department's Springfield office located at ~~524-Sr-Second-Street-Springfield-62701-1787~~; and
- B) Areas designed to support vegetation in the approved plan shall have a minimum areal coverage of 30%. The testing procedure in Section 1817.117(d)(1) through (3) shall be

DEPARTMENT OF NATURAL RESOURCESDEPARTMENT OF NATURAL RESOURCES

NOTICE OF PROPOSED AMENDMENTSNOTICE OF PROPOSED AMENDMENTS

used to evaluate the extent of cover. Areal cover shall be determined to be present if any approved wetland species is measured at the increment. The percentage of areal cover shall be established for the area tested by taking the total number of measurements where areal cover was determined to be present.

- b) The person who conducts underground mining activities shall:
- 1) Conduct periodic measurements of vegetation, soils, and water prescribed or approved by the Department, to identify if remedial actions are necessary during the applicable period of liability specified in subsection (a).
 - 2) Initiate a soil compaction and fertility testing plan, subject to the approval of the Department, for areas that have incurred five unsuccessful attempts to meet the production required by subsection (a)(3)(C) or (E) or 62 Ill. Adm. Code 1785.15, or shall initiate deep tillage on the areas.
 - 3) Permittees shall submit by February 15 of each year a report of reclamation activities conducted during the previous calendar year, which initiate or may alter the responsibility period or are specifically required by the Department to evaluate a normal husbandry practice, using forms provided by the Department. Examples of reclamation activities to be reported and/or evaluated include, but are not limited to, crops used in temporary and permanent seedings, grasses and legumes planted, trees and shrubs planted, soil amendments added, and type and location of augmentation activities. The forms shall be submitted with a copy of the approved post-mining land use and capability map depicting the location of such activities. The map shall be planned as a continuous map so the reclamation activities conducted each year may be added and indicated on the map by the dates the activities were conducted.

(Source: Amended at 26 Ill. Reg. _____, effective _____)

Section 1817.117 Revegetation: Tree, and Shrub, and Herbaceous Vegetation

- a) For areas to be developed for fish and wildlife habitat (including shelter belts), recreation, or forest products land uses, success of vegetation shall be determined on the basis of tree and shrub population and vegetative ground cover. Such parameters are described as follows:
- 1) Trees and shrubs that will be used in determining the success of vegetation and the adequacy of plant arrangement shall have utility for the approved post-mining land use. Tree and/or shrub population shall be considered successful if it meets the population required in subsection (b) below with 90% statistical confidence (i.e., one-sided t test with a 0.10 alpha error)
- b) For areas where woody plants are used for fish and wildlife habitat (including shelter belts), or recreation land uses, the area shall have a minimum population of 250 trees or shrubs per acre. Planting arrangements such as hedgerows, border plantings, clump plantings, shelterbelts, and open herbaceous areas which increase diversity within wildlife areas may be approved by the Department on a case-by-case basis prior to planting such areas. Where woody plants are used for forest products land uses, the area shall have a minimum population of 450 trees or shrubs per acre.
- c) For areas planted to trees or shrubs including wildlife habitat

during the fifth year of the responsibility period or later in the responsibility period. On lands eligible for re-mining, the period of responsibility (until September 30, 2004) shall be two full years. Trees and shrubs counted in determining such success shall be healthy, e.g., not demonstrating abnormal growth, coloring, leaf drop or disease. At the time of bond release such trees and shrubs shall be alive, and shall have been in place for at least 3 ~~three~~ growing seasons, i.e., 3 ~~three~~ years. Until September 30, 2004, on lands eligible for re-mining, trees and shrubs need not have been in place for 3 ~~three~~ years; however, such trees and shrubs shall not be counted in determining success during the same calendar year in which they were planted.

- 2) Vegetative ground cover shall not be less than required to achieve the approved post-mining land use and shall be adequate to control erosion and shall not be less than 70% during the last year of the responsibility period.
 - 3) Permanent roads, parking lots and similar impervious structures on the revegetated area shall not require the planting of trees and shrubs or herbaceous ground cover. Erosion control structures, including pond embankments, shall not require the planting of trees and shrubs.
 - 4) For purposes of this Section, herbaceous species means: grasses, legumes and nonleguminous forbs; woody plants means: woody shrubs, trees and vines; and ground cover means: the area of ground covered by the combined aboveground parts of vegetation and the litter that is produced naturally on site.
 - 5) For purposes of this Section, normal husbandry and conservation practices shall include pruning, disease, pest, vermin and herbaceous vegetation control including mowing, replanting and rill and gully repairs. The replanting of trees and shrubs in areas described in Section 62-~~1117~~-Adm-Code 1817.116(a)(2)(C) shall be limited to 20% of the original approved planting rate during the first year of the responsibility period and 10% of the original approved planting rate during the second year of the responsibility period. The repair of rills and gullies shall be limited to those approved as a normal conservation practice under Section 62-~~1117~~-Adm-Code 1817.116(a)(2)(C), (D) and (E).
- b) For areas where woody plants are used for fish and wildlife habitat (including shelter belts), or recreation land uses, the area shall have a minimum population of 250 trees or shrubs per acre. Planting arrangements such as hedgerows, border plantings, clump plantings, shelterbelts, and open herbaceous areas which increase diversity within wildlife areas may be approved by the Department on a case-by-case basis prior to planting such areas. Where woody plants are used for forest products land uses, the area shall have a minimum population of 450 trees or shrubs per acre.
- c) For areas planted to trees or shrubs including wildlife habitat

DEPARTMENT OF NATURAL RESOURCES

NOTICE OF PROPOSED AMENDMENTS

(including shelter belts), recreation, and forest products land uses, the sampling procedure for measuring populations is described as follows:

- 1) The permittee shall submit a scale drawing or aerial photograph delineating the fields ~~fields~~ to be sampled and the total number of acres in each field. A one inch equals 500 feet or larger scale shall be used. Once field boundaries are established in a submittal, the boundaries shall not be changed unless the Department approves a request in accordance with 62 Ill. Adm. Code 1774.13.

- 2) One of the following circular plot sizes shall be selected by the sample enumerator:

Plot Size/Acres	Radius/Feet
1/160	9.31
1/120	10.7
1/100	11.78
1/90	12.41
1/80	13.17
1/70	14.07
1/60	15.20
1/50	16.65
1/40	18.61
1/30	21.50
1/20	26.33
1/10	37.24
1/5	52.66
1/4	58.88

- 3) The number of plots needed to sample the area will be calculated employing the following formula:

Number of Plots equals 2.5% multiplied by Sample Area in acres divided by plot size.

- 4) Based on the number of plots needed to be sampled and plot size, locate transect lines an equal distance apart throughout the area to be sampled. Position individual plots an equal distance apart along transect lines. Determine the total length of all transect lines combined and then divide by the total number of plots needed to be sampled. When an individual plot is positioned within 60 feet of the boundary of the area to be sampled, the location of the plot shall be moved perpendicular to the transect line until the plot is 60 feet from the boundary of the area to be sampled or the greatest distance possible where 60 feet cannot be achieved.

- 5) Sample each plot for compliance with subsections (a)(1) and (b) and record live trees and/or shrubs and species.

DEPARTMENT OF NATURAL RESOURCES

NOTICE OF PROPOSED AMENDMENTS

- 6) Calculate population levels as follows:

A) Average number of live trees and/or shrubs per plot equals Total Number of live trees and/or shrubs divided by number of plots; and

B) Number of live trees and/or shrubs per acre equals Average number of live trees and/or shrubs per plot multiplied by plot size denominator.

- 7) Representatives of the Department shall administer all sampling.

- d) Vegetative ground cover shall be measured by the following technique:

1) Twenty random points shall be identified in the area to be tested.

2) A 20 foot engineer's tape shall be extended directly south of each point. If the tape extends beyond the boundary of the area to be tested or extends into an area where herbaceous ground cover has been controlled with herbicides to minimize competition with woody plants, the tape shall be rotated in 90 degree increments until the entire 20 feet length is within the boundary of the area to be tested or area not treated with the herbicide.

3) A measurement shall be taken at each .2 foot increment directly above or below the tape.

4) Ground cover shall be determined to be present if any vegetation identified in subsection Section-1017-117 (a)(4) is measured at the increment.

5) A percentage of ground cover shall be established for the area tested by taking the total number of measurements where ground cover was determined to be present.

e) For areas where herbaceous vegetation plants are used for fish and wildlife habitat (including shelter belts), or recreation land uses, vegetative ground cover of approved species shall not be less than required to achieve the approved post-mining land use and shall be adequate to control erosion and shall not be less than 70% during the last year of the responsibility period. Planting arrangements such as hedgerows, border plantings, clump plantings, shelterbelts, and open herbaceous areas that increase diversity within wildlife areas may be approved by the Department on a case-by-case basis prior to planting those areas.

(Source: Amended at 26 Ill. Reg. _____, effective _____)

DEPARTMENT OF NATURAL RESOURCES

NOTICE OF PROPOSED AMENDMENTS

- 1) Heading of the Part: Permit Application-Minimum Requirements for Legal, Financial, Compliance, and Related Information

- 2) Code Citation: 62 Ill. Adm. Code 1778

- 3) Section Numbers: 1778.15
Proposed Action: Amend

- 4) Statutory Authority: Implementing and authorized by the Surface Coal Mining Land Conservation and Reclamation Act [225 ILCS 720]

- 5) A. Complete Description of the Subjects and Issues Involved: The Federal Office of Surface Mining, which oversees the State's regulatory program, has determined that valid existing rights does not apply to areas that are undetermined. Since State law requires that State regulations can be no more stringent than corresponding federal regulations, reference to planned subsidence operations is being removed from this regulation.

- 6) Will this rulemaking replace any emergency rule currently in effect? No

- 7) Does this rulemaking contain an automatic repeal date? No

- 8) Do these proposed amendments contain incorporations by reference? No

- 9) Are there any other proposed amendments pending on this Part? No

- 10) Statement of Statewide Policy Objectives: This rulemaking does not affect units of local government.

- 11) Time, Place and Manner in which interested persons may comment on this proposed rulemaking: Comments on the proposed rulemaking may be submitted in writing for a period of 45 days following publication of this Notice to:

Karen Jacobs
Department of Natural Resources
524 S. Second Street
Springfield IL 62701-1787
217/782-1809

- 12) Initial Regulatory Flexibility Analysis:

A) Types of small businesses, small municipalities and not for profit corporations affected: None

B) Reporting, bookkeeping or other procedures required for compliance: None

DEPARTMENT OF NATURAL RESOURCES

NOTICE OF PROPOSED AMENDMENTS

- C) Types of professional skills necessary for compliance: None

- 13) Regulatory Agenda on which this rule was summarized: January 2001

The full text of the Proposed Amendments begins on the next page:

DEPARTMENT OF NATURAL RESOURCES

NOTICE OF PROPOSED AMENDMENTS

TITLE 62: MINING
CHAPTER I: DEPARTMENT OF NATURAL RESOURCES

PART 1778

PERMIT APPLICATIONS--MINIMUM REQUIREMENTS
FOR LEGAL, FINANCIAL, COMPLIANCE, AND RELATED INFORMATION

- Section
 1778.4 Responsibility (Repealed)
 1778.11 Applicability (Repealed)
 1778.13 Identification of Interests
 1778.14 Violation Information
 1778.15 Right of Entry Information
 1778.16 Relationship to Areas Designated Unsuitable for Mining
 1778.17 Permit Term
 1778.18 Insurance
 1778.20 Identification of Location of Public Office for Filing of Application (Repealed)
 1778.21 Proof of Publication
 1778.22 Facilities or Structures Used in Common

AUTHORITY: Implementing and authorized by the Surface Coal Mining Land Conservation and Reclamation Act [225 ILCS 720].

SOURCE: Adopted at 4 Ill. Reg. 37, p. 1, effective June 1, 1982; amended at 11 Ill. Reg. 1, effective June 1, 1982; codified at 8 Ill. Reg. 9348; amended at 11 Ill. Reg. 8368, effective July 1, 1987; amended at 14 Ill. Reg. 11873, effective January 1, 1991; amended at 15 Ill. Reg. 17265, effective January 1, 1992; amended at 17 Ill. Reg. 11027, effective July 1, 1993; amended at 20 Ill. Reg. 2080, effective January 19, 1996; amended at 22 Ill. Reg. 20260, effective November 5, 1998; amended at 26 Ill. Reg. _____, effective _____.

Section 1778.15 Right of Entry Information

- a) An application shall contain a description of the documents upon which the applicant bases his or her legal right to enter and begin surface coal mining and reclamation operations in the permit area and shall state whether that right is the subject of pending litigation. The description shall identify those documents by type and date of execution, identify the specific lands to which the document pertains, and explain the legal rights claimed by the applicant. The Department will not be liable in any way if the claimed right to enter and begin surface mining activities has been, or is later, adjudicated invalid by a court of competent jurisdiction. Documents shall not be submitted to the Department in lieu of the description identified in this subsection; however, the Department may subsequently require the applicant to provide such information during the permitting process.

DEPARTMENT OF NATURAL RESOURCES

NOTICE OF PROPOSED AMENDMENTS

- b) For surface mining activities where the private mineral estate to be mined has been severed from the private surface estate, the application shall also provide for lands within the permit area:
- 1) A copy of the written consent of the surface owner to the extraction of coal by surface mining methods;
 - 2) A copy of the conveyance that expressly grants or reserves the right to extract the coal by surface mining methods; or
 - 3) If the conveyance does not expressly grant the right to extract the coal by surface mining methods, documentation that under the applicable State law, the applicant has the legal authority to extract the coal by those methods.
- c) Nothing in this Section shall be construed to afford the Department the authority to adjudicate property title disputes.
- d) In satisfaction of the requirements of this Section the Department may accept, as part of a permit application, a statement, notarized and attested to the truth of the statement, signed by an attorney licensed to practice law in the State of Illinois, the applicant has the legal right to enter and commence the surface coal mining and reclamation operations proposed in the application. The statement shall identify the documents upon which it is based by type and date of execution, identify the specific lands to which each document pertains, and explain the legal rights claimed by the applicant. If subsection (b) applies, such statement shall also include copies of the documents as required in subsections (b)(1) through (3).
- e) An application in which the applicant claims to have valid existing rights to conduct surface coal mining operations--including--~~planned subsidence--operations~~, in an area where mining is prohibited or limited under 62 Ill. Adm. Code 1761.11 shall contain the necessary information and meet the requirements of Section 1778.16 and 62 Ill. Adm. Code 1761.12.
- f) All applications for shadow area shall contain a notarized statement by a responsible official of the applicant attesting that all necessary mining rights, including the right to subside, if applicable, have been or will be obtained prior to mining.

(Source: Amended at 26 Ill. Reg. _____, effective _____.)

DEPARTMENT OF NATURAL RESOURCES

NOTICE OF PROPOSED AMENDMENTS

1) Heading of the Part: Requirements for Permits and Permit Processing2) Code Citation: 62 Ill. Adm. Code 17733) Section Numbers: Proposed Action:

1773.12	Amend
1773.13	Amend
1773.15	Amend

4) Statutory Authority: Implementing and authorized by the Surface Coal Mining Land Conservation and Reclamation Act [225 ILCS 720].5) A Complete Description of the Subjects and Issues Involved: Section 1773.12 is being amended to remove reference to the Interagency Committee because it was abolished by Public Act 90-0490.

Section 1773.13 is being amended to require that the map or description of the proposed permit area published as part of the public notice advertising a permit or revision application include the shadow area for underground mines and to require the applicant to file an additional copy of any changes to the application submitted to the Department. The Department will then forward this copy to the appropriate public office.

Section 1773.15 is being amended to require the applicant to submit modification required by the Department within one year of being notified of the need for modification. If the deadline is not met, the application will be denied.

6) Will this rulemaking replace any emergency rulemakings currently in effect? No7) Does this rulemaking contain an automatic repeal date? No8) Do these proposed amendments contain incorporations by reference? No9) Are there any other proposed amendments pending on this Part? No10) Statement of Statewide Policy Objectives: This rulemaking does not affect units of local government.

11) Time, Place and Manner in which interested persons may comment on this proposed rulemaking: Comments on the proposed rulemaking may be submitted in writing for a period of 45 days following publication of this Notice to:

Karen Jacobs
Department of Natural Resources
524 S. Second Street

DEPARTMENT OF NATURAL RESOURCES

NOTICE OF PROPOSED AMENDMENTS

Springfield IL 62701-1787

217/782-1809

12) Initial Regulatory Flexibility Analysis:A) Types of small businesses, small municipalities and not for profit corporations affected: NoneB) Reporting, bookkeeping or other procedures required for compliance: NoneC) Types of professional skills necessary for compliance: None

13) Regulatory Agenda on which these amendments was summarized: This rulemaking was not included on either of the 2 most recent regulatory agendas because: The Department neglected to file a regulatory agenda on this Part.

The full text of the Proposed Amendments begins on the next page:

DEPARTMENT OF NATURAL RESOURCES

NOTICE OF PROPOSED AMENDMENTS

TITLE 62: MINING
CHAPTER I: DEPARTMENT OF NATURAL RESOURCESPART 1773
REQUIREMENTS FOR PERMITS AND PERMIT PROCESSING

Section	Scope and Purpose
1773.1	Definitions
1773.5	Requirements to Obtain Permits
1773.11	Regulatory Coordination with Requirements under Other Laws
1773.12	Public Participation in Permit Processing
1773.13	Opportunity for Public Hearing
1773.14	Review of Permit Applications
1773.15	Permit Conditions
1773.17	Permit Issuance and Right of Renewal
1773.19	Improvidently Issued Permits: General Procedures
1773.20	Improvidently Issued Permits: Rescission Procedures
1773.21	Verification of Ownership or Control Application Information
1773.22	Review of Ownership or Control and Violation Information
1773.23	Procedures for Challenging Ownership or Control Links Shown in the Applicant Violator System
1773.24	Standards for Challenging Ownership or Control Links and the Status of Violations
1773.25	

AUTHORITY: Implementing and authorized by the Surface Coal Mining Land Conservation and Reclamation Act [225 ILCS 720].

SOURCE: Adopted at 11 Ill. Reg. 8395, effective July 1, 1987; amended at 14 Ill. Reg. 11886, effective January 1, 1991; amended at 15 Ill. Reg. 17274, effective January 1, 1992; amended at 15 Ill. Reg. 17998, effective January 1, 1992; amended at 17 Ill. Reg. 11063, effective July 1, 1993; amended at 20 Ill. Reg. 2090, effective January 19, 1996; amended at 22 Ill. Reg. 20265, effective November 5, 1998; amended at 26 Ill. Reg. _____, effective _____.

Section 1773.12 Regulatory Coordination with Requirements under Other Laws

The Department shall, to avoid duplication, provide for the coordination of review and issuance of permits for surface coal mining and reclamation operations with applicable requirements of State laws and regulations A-permit application will be submitted for review by the interagency committee on Surface Mining Control and Reclamation to avoid duplication and provide for the coordination of review and issuance of permits for surface coal mining and reclamation operations the Department will assure that the comments and recommendations by the interagency committee will address compliance with these regulations, State laws and regulations with respect to each agency's area of expertise and the requirements of the Endangered Species Act of 1973, as

DEPARTMENT OF NATURAL RESOURCES

NOTICE OF PROPOSED AMENDMENTS

amended (16 USC 668-1531 et seq.); the Fish and Wildlife Coordination Act, as amended (16 USC 661 et seq.); the Migratory Bird Treaty Act of 1918, as amended (16 USC 703 et seq.); the National Historic Preservation Act of 1966, as amended (16 USC 470 et seq.); the Bald Eagle Protection Act, as amended (16 USC 668a); and federal Executive Order 11593.

(Source: Amended at 26 Ill. Reg. _____, effective _____.)

Section 1773.13 Public Participation in Permit Processing

a) Filing and public notice.

1) Upon submission of an administratively complete application, an applicant for a permit, significant revision of a permit under 62 Ill. Adm. Code 1774.13, or renewal of a permit under 62 Ill. Adm. Code 1774.15, shall place an advertisement in a local newspaper of general circulation in the locality of the proposed surface coal mining and reclamation operation at least once a week for four 4) consecutive weeks. A copy of the advertisement as it will appear in the newspaper shall be submitted to the Department. The advertisement shall contain, at a minimum, the following:

A) The name and business address of the applicant.

B) A map or description which clearly shows or describes the precise location and boundaries of the proposed permit area and shadow area, if applicable, and is sufficient to enable local residents to readily identify the proposed permit area. It may include towns, bodies of water, local landmarks, and any other information which would identify the location. If a map is used, it shall indicate the north direction. If the application includes a shadow area, the map or description shall differentiate between the two.

C) The location where a copy of the application is available for public inspection.

D) The address of the office of the Department where written comments, objections or requests for informal conferences and public hearings on the application may be submitted under subsections (b) and (c).

E) If an applicant seeks a permit to mine within one hundred feet of the outside right-of-way of a public road, except where public notice and hearing have previously been provided for this particular part of the road in accordance with 62 Ill. Adm. Code 1761.12(c), a concise statement describing the public road, the activities proposed within one hundred feet of the road, the particular part to be relocated or closed, if applicable, and the approximate timing and duration of the relocation or closing.

F) If the application includes a request for an experimental

DEPARTMENT OF NATURAL RESOURCES

NOTICE OF PROPOSED AMENDMENTS

practice under 62 Ill. Adm. Code 1785.13, a statement indicating that an experimental practice is requested and identifying the regulatory provisions for which a variance is requested.

- 2) The applicant shall make an application for a permit, significant revision under 62 Ill. Adm. Code 1774.13, or renewal of a permit under 62 Ill. Adm. Code 1774.15 available for the public to inspect and copy by filing a full copy of the application with the clerk at the courthouse of the county where the mining is proposed to occur. This copy of the application need not include confidential information exempt from disclosure under subsection (d). The application required by this subsection shall be filed in accordance with Section 2.04(a) of the State Act. The applicant shall file an additional copy of any changes to the application with the public-office-at-the-same-time-the-change-is submitted-to the Department. The Department will then forward this copy to the public office.

- 3) Upon receipt of an administratively complete application for a permit, a significant revision to a permit under 62 Ill. Adm. Code 1774.13, or a renewal of a permit under 62 Ill. Adm. Code 1774.15, the Department shall issue written notification indicating the applicant's intention to mine the described tract of land, the application number or other identifier, the location where the copy of the application may be inspected, and the location where comments on the application may be submitted. The notification shall be sent to:
 - A) Local governmental agencies with jurisdiction over or an interest in the area of the proposed surface coal mining and reclamation operation, including but not limited to planning agencies, sewage and water treatment authorities, water companies; and
 - B) All Federal or State governmental agencies with authority to issue permits and licenses applicable to the proposed surface coal mining and reclamation operation and which are part of the permit coordinating process developed in accordance with Section 503(a)(6) of the Federal Act or Section 1773.12; or those agencies with an interest in the proposed operation, including the U.S. Department of Agriculture, Natural Resources Service, Conservation Service district office, the local U.S. Army Corps of Engineers district engineer, the National Park Service, State and Federal fish and wildlife agencies, and the historic preservation officer.

- b) Comments and objections on permit applications.

- 1) Written comments or objections to an application for a permit, significant revision to a permit under 62 Ill. Adm. Code 1774.13, or renewal of a permit under 62 Ill. Adm. Code 1774.15 may be submitted to the Department by any person having an interest

DEPARTMENT OF NATURAL RESOURCES

NOTICE OF PROPOSED AMENDMENTS

which is or may be adversely affected by the decision on the application, or by an officer or head of any Federal, State, or local government agency or authority notified under subsection (a)(3), within ~~thirty~~ 30 days after the last publication of the newspaper notice required by subsection (a). Any person not a public officer, as designated in this subsection, who submits written comments or objections to an application and claims to have an interest which is or may be adversely affected by the Department's decision shall identify the interests ~~interests~~ claimed and shall state how the Department's decision may or will adversely affect the interests ~~interests~~ specified.

- 2) The Department shall upon receipt of such written comments or objections:
 - A) Transmit a copy of the comments or objections to the applicant; and
 - B) File a copy for public inspection at the same public office where the application is filed.

- c) Informal conferences.

- 1) Any person having an interest which is or may be adversely affected by the decision on the application, or an officer or head of a Federal, State, or local government agency, may request in writing that the Department hold an informal conference on the application for a permit, significant revision to a permit under 62 Ill. Adm. Code 1774.13, or renewal of a permit under 62 Ill. Adm. Code 1774.15. Any person not a public officer, as designated in this subsection, who requests the Department to hold an informal conference with respect to an application based on a claim of an interest which is or may be adversely affected by the Department's decision, shall in the request for an informal conference identify the interests ~~interests~~ claimed and shall state how the Department's decision may or will adversely affect the interests ~~interests~~ specified. The request shall:
 - A) Briefly summarize the issues to be raised by the requester at the conference;
 - B) State whether the requester desires to have the conference conducted in the locality of the proposed operation; and
 - C) Be filed with the Department no later than ~~thirty~~ 30 days after the last publication of the newspaper advertisement required under subsection (a).

- 2) Except as provided in subsection (c)(3), if an informal conference is requested in accordance with subsection (c)(1), the Department shall hold an informal conference within ~~seventy-five~~ 75 days after the first newspaper notice required by subsection (a). The informal conference shall be conducted as follows:
 - A) If requested under subsection (c)(1)(B), it shall be held in the locality of the proposed surface coal mining and

DEPARTMENT OF NATURAL RESOURCES
NOTICE OF PROPOSED AMENDMENTS

- reclamation operation.
- B) The date, time, and location of the informal conference shall be sent to the applicant and other parties to the conference and advertised by the Department in a newspaper of general circulation in the locality of the proposed surface coal mining and reclamation operation at least two-~~2~~ weeks before the scheduled conference.
- C) If requested in writing by a conference requester at least ~~seven--7~~ 7 days before the conference, the Department may arrange with the applicant to grant parties to the conference access to the proposed permit area and, to the extent that the applicant has the right to grant access to it, to the shadow area and adjacent area prior to the established date of the conference for the purpose of gathering information relevant to the conference.
- D) The conference shall be conducted by a representative of the Department, who shall accept oral or written statements and any other relevant information from any party to the conference. An electronic or stenographic record shall be made of the conference, unless waived by all the parties. The record shall be maintained and shall be accessible to the parties of the conference until final release of the applicant's performance bond or other equivalent guarantee pursuant to 62 Ill. Adm. Code 1800.40.
- 3) If all parties requesting the informal conference withdraw their request before the conference is held, the informal conference shall be canceled.
- 4) Informal conferences held in accordance with this subsection may be used by the Department as the public hearing required under 62 Ill. Adm. Code 1761.12(c) on proposed relocation or closing of public roads.
- d) Public availability of permit applications.
- 1) General availability.
Except as provided in subsection (d)(2) or (d)(3) below, all applications for permits; revisions; renewals; and transfers, assignments or sales of permit rights on file with the Department shall be available, at reasonable times, for public inspection and copying.
 - 2) Limited availability.
Except as provided for in subsection (d)(3)(A) below, information pertaining to coal seams, test borings, core samplings, or soil samples in an application shall be made available to any person with an interest which is or may be adversely affected. Information subject to subsection (d)(2) above shall be made available to the public when such information is required to be on public file pursuant to the Freedom of Information Act (~~Rev--Stat--1991--ch--116--pars--201-et-seq--~~ [5 ILCS 140]).
 - 3) Confidentiality.

DEPARTMENT OF NATURAL RESOURCES
NOTICE OF PROPOSED AMENDMENTS

- In accordance with the Freedom of Information Act (~~111--Rev--Stat--1991--ch--116--pars--201-et-seq--~~ [5 ILCS 140]), the Department provides procedures, including notice and opportunity to be heard for persons both seeking and opposing disclosure, to ensure confidentiality of qualified confidential information, which shall be clearly identified by the applicant and submitted separately from the remainder of the application. Confidential information is limited to:
- A) Information that pertains only to the analysis of the chemical and physical properties of the coal to be mined, except information on components of such coal which are potentially toxic in the environment;
 - B) Information required under Section 508 of the Federal Act that is not on public file pursuant to State law and that the applicant has requested in writing to be held confidential;
 - C) Information on the nature and location of archaeological resources on public land and Indian land as required under the Archaeological Resources Protection Act of 1979 (P.L. 96-95, 93 Stat. 721, 16 USC 8-6-470).
- (Source: Amended at 26 Ill. Reg. _____, effective _____)
- Section 1773.15 Review of Permit Applications
- a) General.
- 1) The Department shall review the application for a permit, revision, or renewal; written comments and objections submitted; and records of any informal conference or hearing held on the application, and either: ~~issue a written decision in accordance with Section 1773.17 either grant or requiring modification of or denying the application; if a public hearing is held under Section 1773.14, the decision shall be made within 60 days after the close of the public hearing, unless a later time is necessary to provide an opportunity for a hearing under subsection (b)(3); or~~
 - B) Issue a written decision requiring modification of the application. If a public hearing is held under Section 1773.14, the decision to require modifications shall be made within 60 days after the close of the public hearing.
 - i) If the applicant does not submit the required

DEPARTMENT OF NATURAL RESOURCES

NOTICE OF PROPOSED AMENDMENTS

modifications to the Department within one year after the date of receipt of notification of the need for modifications, the Department shall issue a written finding in accordance with Section 1773.19 denying the application. The Department may issue an extension to this time limit if the applicant can demonstrate just cause for doing so.

ii) Upon receipt of the applicant's responses to the required modifications, the Department shall review the responses and issue a written decision, in accordance with Section 1773.19, either granting or denying the application.

2) The applicant for a permit or revision of a permit shall have the burden of establishing that his application is in compliance with all the requirements of the regulatory program.

b) Review of violations.

1) Based on a review of all reasonably available information concerning violation notices and ownership or control links involving the applicant, including information obtained pursuant to Sections 1773.22, 1773.23, 1778.13 and 1778.14, the Department shall not issue the permit if any surface coal mining and reclamation operation owned or controlled by either the applicant or by any person who owns or controls the applicant is currently in violation of the State Act, Federal Act, any State or federal regulation promulgated pursuant thereto, a State program, or any federal or State law or regulation pertaining to air or water environmental protection. In the absence of a failure-to-abate cessation order, the Department may presume that a notice of violation issued pursuant to 62 Ill. Adm. Code 1843.12 or under a Federal or State program is being corrected to the satisfaction of the agency with jurisdiction over the violation where the abatement period for such notice of violation has not yet expired and when, as part of the violation information provided pursuant to 62 Ill. Adm. Code 1778.14, the applicant has provided certification that such violation is in the process of being so corrected. Such presumption shall not apply where evidence to the contrary is set forth in the permit application, or where the notice of violation is issued for nonpayment of abandoned mine land reclamation fees or civil penalties. If a current violation exists, the Department shall require the applicant or person who owns or controls the applicant, before the issuance of the permit, to either:

A) Submit to the Department proof that the current violation has been or is in the process of being corrected to the satisfaction of the agency that has jurisdiction over the violation; or

B) Establish for the Department that the applicant, or any person owned or controlled by either the applicant or any

DEPARTMENT OF NATURAL RESOURCES

NOTICE OF PROPOSED AMENDMENTS

person who owns or controls the applicant, has filed and is presently pursuing, in good faith, a direct administrative or judicial appeal to contest the validity of the current violation. If the circuit or district court reviewing the violation, pursuant to 62 Ill. Adm. Code 1847.4(p), 30 CFR 775.13 or in accordance with the procedures established by other state regulatory authorities, either denies a stay applied for in the appeal or affirms the violation, then the applicant shall submit the proof required under subsection (b)(1)(A) above within 30 days after the court's decision.

2) Any permit that is issued on the basis of a presumption supported by certification under 62 Ill. Adm. Code 1778.14 that a violation is in the process of being corrected, on the basis of proof submitted under subsection (b)(1)(A) of this Section that a violation is in the process of being corrected, or pending the outcome of an appeal described in subsection (b)(1)(B) of this Section, shall be conditionally issued.

3) If the Department makes a finding that the applicant, anyone who owns or controls the applicant, or the operator specified in the application, controls or has controlled surface coal mining and reclamation operations with a demonstrated pattern of willful violations of the Federal or State Act Acts of such nature and duration and with such resulting irreparable damage to the environment as to indicate an intent not to comply with the Federal or State Act Acts, the application shall be denied. Before such a finding becomes final, the applicant or operator shall be afforded an opportunity for an adjudicatory hearing on the determination as provided for in 62 Ill. Adm. Code 1847.3.

c) Written findings for permit application approval.

No permit application or application for a significant revision of a permit shall be approved unless the application affirmatively demonstrates and the Department finds, in writing, on the basis of information set forth in the application or from information otherwise available that is documented in the approval, the following:

1) The application is complete and accurate and the applicant has complied with all requirements of the Federal Act, State Act and the regulatory program.

2) The applicant has demonstrated that reclamation as required by the Federal Act, State Act and the regulatory program can be accomplished under the reclamation plan contained in the permit application.

3) The proposed permit area or the proposed shadow area for a planned subsidence operation is:

A) Not within an area under study or administrative proceedings under a petition, filed pursuant to 62 Ill. Adm. Code 1764, to have an area designated as unsuitable for surface coal mining operations, unless the applicant demonstrates that before January 4, 1977, he has made substantial legal and

DEPARTMENT OF NATURAL RESOURCES

NOTICE OF PROPOSED AMENDMENTS

financial commitments in relation to the operation covered by the permit application; or

- B) Not within an area designated as unsuitable for mining pursuant to 62 Ill. Adm. Code 1762 and 1764 or subject to the prohibitions or limitations of 62 Ill. Adm. Code 1761.11 and 1761.12.

- 4) For mining operations where the private mineral estate to be mined has been severed from the private surface estate, the applicant has submitted to the Department the documentation required under 62 Ill. Adm. Code 1778.15(b).

- 5) The Department has made an assessment of the probable cumulative impacts of all anticipated coal mining on the hydrologic balance in the cumulative impact area, in accordance with 62 Ill. Adm. Code 1780 and 1784 and has determined that the proposed operation has been designed to prevent material damage to the hydrologic balance outside the permit area.

- 6) The applicant has demonstrated that any existing structure will comply with 62 Ill. Adm. Code 1700.11(d).

- 7) The applicant has paid all reclamation fees from previous and existing operations as required by 30 CFR 870.

- 8) The applicant has satisfied the applicable requirements of 62 Ill. Adm. Code 1785.

- 9) The applicant has, if applicable, satisfied the requirements for approval of a long-term, intensive agricultural post-mining land use, in accordance with the requirements of 62 Ill. Adm. Code 1816.111(d) and 1817.111(d).

- 10) The operation would not affect the continued existence of endangered or threatened species or result in destruction or adverse modification of their critical habitats, as determined under the Endangered Species Act of 1973 (16 USC 853-e; 1531 et seq.).

- 11) For a proposed remaining operation where the applicant intends to reclaim in accordance with the requirements of 62 Ill. Adm. Code 1816.1067 or 1817.106, the site of the operation is a previously mined area as defined in 62 Ill. Adm. Code 1701.Appendix A.

- 12) The Department has taken into account the effect of the proposed permitting action on properties listed on and eligible for listing on the National Register of Historic Places. This finding may be supported in part by inclusion of appropriate permit conditions or changes in the operation plan protecting historic resources, or a documented decision that the Department has determined that no additional measures are necessary.

- 13) For a proposed remaining operation where the applicant intends to reclaim in accordance with the requirements of 62 Ill. Adm. Code 1816.116(a)(2)(B) or 1817.116(a)(2)(B), the site of the operation is land eligible for remining as defined in 62 Ill. Adm. Code 1701.Appendix A.

- d) Expiration of findings.

DEPARTMENT OF NATURAL RESOURCES

NOTICE OF PROPOSED AMENDMENTS

Written findings issued by the Department approving a permit application shall expire within one year from the date of issuance if the permit has not been issued based upon the applicant's failure to submit permit fees in accordance with 62 Ill. Adm. Code 1777.17 or a performance bond in accordance with 62 Ill. Adm. Code 1800.11. When written findings expire, the Department will take no further action on the permit application. Should the applicant choose to resume permitting activity for the area in question, a new permit application must be submitted in accordance with the requirements of this Part.

e)

Final compliance review.

After an application is approved, but before the permit is issued, the Department shall reconsider its decision to approve the application, based on the compliance review required by subsection (b)(1), in light of any new information submitted under 62 Ill. Adm. Code 1778.13(i) and 1778.14(e).

(Source: Amended at 26 Ill. Reg. _____, effective _____)

DEPARTMENT OF NATURAL RESOURCES

NOTICE OF PROPOSED AMENDMENTS

- 1) Heading of the Part: Requirements for Permits for Special Categories of Mining
- 2) Code Citation: 62 Ill. Adm. Code 1785
- 3) Section Numbers: 1785.23
Proposed Action:
Amend
- 4) Statutory Authority: Implementing and authorized by the Surface Coal Mining Land Conservation and Reclamation Act [225 ILCS 720].
- 5) A Complete Description of the Subjects and Issues Involved: This Section is being amended to remove the reference to the Interagency Committee because it was abolished by Public Act 90-0490.
- 6) Will this rulemaking replace any emergency rulemaking currently in effect?
No
- 7) Does this rulemaking contain an automatic repeal date? No
- 8) Does this proposed amendment contain incorporations by reference? No
- 9) Are there any other proposed amendment pending on this Part? No
- 10) Statement of Statewide Policy Objectives: This rulemaking does not affect units of local government.

11) Time, Place and Manner in which interested persons may comment on this proposed rulemaking: Comments on the proposed rulemaking may be submitted in writing for a period of 45 days following publication of this Notice to:

Karen Jacobs
Department of Natural Resources
524 S. Second Street
Springfield IL 62701-1787
217/782-1809

12) Initial Regulatory Flexibility Analysis:

A) Types of small businesses, small municipalities and not for profit corporations affected: None

B) Reporting, bookkeeping or other procedures required for compliance:
None

C) Types of professional skills necessary for compliance: None

DEPARTMENT OF NATURAL RESOURCES

NOTICE OF PROPOSED AMENDMENTS

- 13) Regulatory Agenda on which this rulemaking was summarized: This rulemaking was not included on either of the 2 most recent regulatory agendas because: The Department neglected to file a regulatory agenda on this Part.

The full text of the Proposed Amendment begins on the next page:

DEPARTMENT OF NATURAL RESOURCES

NOTICE OF PROPOSED AMENDMENTS

TITLE 62: MINING

CHAPTER I: DEPARTMENT OF NATURAL RESOURCES

PART 1785

REQUIREMENTS FOR PERMITS FOR SPECIAL CATEGORIES OF MINING

Section	
1785.1	Scope
1785.2	Objective
1785.13	Experimental Practices Mining
1785.14	Mountaintop Removal Mining
1785.15	Steep Slope Mining
1785.16	Permits Incorporating Variances From Approximate Original Contour Restoration Requirements
1785.17	Prime Farmlands
1785.18	Variances for Delay in Contemporaneous Reclamation Requirement in Combined Surface and Underground Mining Activities
1785.20	Augering
1785.21	Coal Preparation Plants Not Located Within the Permit Area of a Mine
1785.22	In Situ Processing Activities
1785.23	Minor Underground Mine Facilities Not at or Adjacent to the Processing or Preparation Facility or Area

AUTHORITY: Implementing and authorized by the Surface Coal Mining Land Conservation and Reclamation Act [225 ILCS 720].

SOURCE: Adopted at 4 Ill. Reg. 37, p. 1, effective June 1, 1982; amended at 6 Ill. Reg. 1, effective June 1, 1982; codified at 8 Ill. Reg. 15930; amended at 9 Ill. Reg. 13324, effective October 10, 1985; amended at 11 Ill. Reg. 8416, effective July 1, 1987; amended at 17 Ill. Reg. 11075, effective July 1, 1993; amended at 20 Ill. Reg. 2107, effective January 19, 1996; recodified from the Department of Mines and Minerals to the Department of Natural Resources at 21 Ill. Reg. 16192; amended at 22 Ill. Reg. 20273, effective November 5, 1998; amended at 26 Ill. Reg. _____, effective _____.

Section 1785.23 Minor Underground Mine Facilities Not at or Adjacent to the Processing or Preparation Facility or Area

- a) Any person who intends to conduct underground mining activities which require establishment or use of minor underground mine facilities not at or adjacent to the processing or preparation facility or area shall obtain a permit from the Department.
- b) Minor underground mine facilities include air shafts, fan and ventilation buildings, small support buildings or sheds, access power holes, other small miscellaneous structures and associated roads.
- c) Contents of application for permit. Each application for a permit shall contain, at a minimum, the following information:
 - 1) The name, address, and telephone number of the applicant;

DEPARTMENT OF NATURAL RESOURCES

NOTICE OF PROPOSED AMENDMENTS

2) Reclamation and operations plans, including:

- A) A narrative description of the proposed minor disturbance area, cross-referenced to the map required under subsection (c)(4), including surface topography; geological, surface water, and other physical features; and vegetative cover;
 - B) A narrative description of the methods to be used in the operations and reclamation, including, but not limited to, the types and uses of equipment, drilling, blasting, road or other access route construction, and excavated earth and other debris disposal activities;
 - C) An estimated timetable for conducting and completing each phase of the reclamation;
 - D) The estimated amounts of coal to be removed and a description of the methods to be used to determine those amounts; and
 - E) A description of the measures to be used to comply with the applicable requirements of 62 Ill. Adm. Code 1817.182i.
- 3) The name and address of the owner of record of the surface land;
 - 4) A map at a scale of 1:24,000 or larger, showing the areas of land to be disturbed by the proposed operations and reclamation. The map shall specifically show existing roads, occupied dwellings, and pipelines; proposed location of trenches, roads, and other access routes and structures to be constructed; the location of land excavations to be conducted; water or coal exploratory holes and wells to be drilled or altered; earth or debris disposal areas; existing bodies of surface water; historic, topographic, cultural, and drainage features; and
 - 5) If the surface is owned by a person other than the applicant, a description of the basis upon which the applicant claims the right to enter that land for the purpose of conducting operations and reclamation.
- d) Public notice and opportunity to comment. Public notice of the application and opportunity to comment shall be provided as follows:
 - 1) Within five-~~4~~ 57 days after filing of an application with the Department, public notice shall be posted by the applicant at the courthouse or other public office designated by the Department in the vicinity of the proposed permit area and shall be published in a local newspaper in the area of the proposed activities;
 - 2) The public notice shall state the name and business address of the person seeking the permit, the date of filing of the application, the address of the Department at which written comments on the application may be submitted, the closing date of the comment period, and a description of the general area of the proposed activities. In no case shall the public comment period be less than ~~thirty-4~~ 307 days;
 - 3) Any person with an interest which is or may be adversely affected shall have the right to file written comments on the application within the public comment period; and

DEPARTMENT OF NATURAL RESOURCES

NOTICE OF PROPOSED AMENDMENTS

- 4) Other State agencies deemed appropriate by the Department the Interagency Committee shall be given copies of the application and provided thirty-(30) days from the date of receipt to submit comments.
- e) Applications: Approval or disapproval of minor underground mining activities not at or near the mine site.
- 1) The Department shall make its final decision to approve, deny or require modification of the completed application for a permit within twenty-(20) days following the close of the public comment period; or
- 2) The Department shall approve a complete application filed in accordance with this Section if it finds in writing that the applicant has demonstrated that the activities and reclamation described in the application will be conducted in accordance with the State Act and 62 Ill. Adm. Code 1817.182.
- f) Terms of approval. Each permit issued by the Department shall contain conditions necessary to ensure that the activities and reclamation will be conducted in compliance with the State Act and 62 Ill. Adm. Code 1817.182.
- g) Applications: Notice and hearing for minor underground mining facilities.
- 1) The Department shall notify the applicant, each person who filed comments or objections to the permit application and the appropriate local government officials, in writing, of its decision to approve or deny the application. If the application is denied, the notice to the applicant shall include a statement of the reason for disapproval.
- 2) Any person with interests which are or may be adversely affected by a decision of the Department pursuant to subsection (g)(1) above shall have the opportunity for administrative and judicial review as set forth in 62 Ill. Adm. Code 1847.3.
- h) Minor facility compliance duties.
- 1) Minor underground mine facilities not at or adjacent to the processing or preparation facility or area shall be conducted in accordance with 62 Ill. Adm. Code 1817.182 and any conditions on approval of such activities.
- 2) Any person who utilizes or establishes such minor facilities in violation of the State Act, this Section or 62 Ill. Adm. Code 1817.182 shall be subject to the provisions of Sections 8.01 to 8.10 of the State Act and 62 Ill. Adm. Code 1840 through 1845.
- (Source: Amended at 26 Ill. Reg. _____, effective _____)

DEPARTMENT OF NATURAL RESOURCES

NOTICE OF PROPOSED AMENDMENTS

- 1) Heading of the Part: Special Permanent Program Performance Standards--Operations on High Capability Lands
- 2) Code Citation: 62 Ill. Adm. Code 1825
- 3) Section Numbers: 1825.14
Proposed Action: Amend
- 4) Statutory Authority: Implementing and authorized by the Surface Coal Mining Land Conservation and Reclamation Act [225 ILCS 720].
- 5) A Complete Description of the Subjects and Issues Involved: This rule is being amended to require soil compaction alleviation be done on lands reclaimed to high capability standards unless it can be shown that the productivity standards of Section 1816.116(a)(3)(C) have been, or could have been met, without compaction alleviation.
- 6) Will this rulemaking replace any emergency rule currently in effect? No
- 7) Does this rulemaking contain an automatic repeal date? No
- 8) Do these proposed amendments contain incorporations by reference? No
- 9) Are there any other proposed amendments pending on this Part? No
- 10) Statement of Statewide Policy Objectives: This rulemaking does not affect units of local government.
- 11) Time, Place and Manner in which interested persons may comment on this proposed rulemaking: Comments on the proposed rulemaking may be submitted in writing for a period of 45 days following publication of this Notice to:
- Karen Jacobs
Department of Natural Resources
524 S. Second Street
Springfield IL 62701-1787
217/782-1809
- 12) Initial Regulatory Flexibility Analysis:
- A) Types of small businesses, small municipalities and not for profit corporations affected: None
- B) Reporting, bookkeeping or other procedures required for compliance: None
- C) Types of professional skills necessary for compliance: None

DEPARTMENT OF NATURAL RESOURCES
NOTICE OF PROPOSED AMENDMENTS

TITLE 62: MINING
CHAPTER I: DEPARTMENT OF NATURAL RESOURCES

PART 1825
SPECIAL PERMANENT PROGRAM PERFORMANCE STANDARDS--
OPERATIONS ON HIGH CAPABILITY LANDS

- Section
1825.11 High Capability Lands: Special Requirements
1825.12 High Capability Lands: Soil Removal
1825.13 High Capability Lands: Soil Stockpiling
1825.14 High Capability Lands: Soil Replacement

AUTHORITY: Implementing and authorized by the Surface Coal Mining Land Conservation and Reclamation Act [225 ILCS 720].

SOURCE: Adopted at 4 Ill. Reg. 37, p. 1, effective June 1, 1982; amended at 6 Ill. Reg. 1, effective June 1, 1982; emergency amendment at 6 Ill. Reg. 8502, effective July 1, 1982, for a maximum of 150 days; codified at 8 Ill. Reg. 9363; amended at 6 Ill. Reg. 9987, effective September 3, 1982; amended at 10 Ill. Reg. 9628, effective July 1, 1986; amended at 11 Ill. Reg. 8526, effective July 1, 1987; amended at 20 Ill. Reg. 2130, effective January 19, 1996; amended at 22 Ill. Reg. 20286, effective November 5, 1998; amended at 26 Ill. Reg. _____, effective _____.

Section 1825.14 High Capability Lands: Soil Replacement

Surface mining operations on high capability lands shall be conducted according to the following:

- a) The operator shall establish a suitable rooting medium.
 - 1) Texture. In order to be of suitable texture, the materials under the darkened surface soil suitable as a root medium shall contain no more than ~~twenty-percent-~~ 20% coarse material (greater than ~~two-~~ 2 mm in size) by volume. No more than half of the coarse material may be between ~~three-~~ 3 inches and ~~ten-~~ 10 inches in the greatest dimension. No fragments shall be greater in size than ~~ten-~~ 10 inches in the greatest dimension. In no case may clay material of less than ~~two-~~ 2 microns be greater than ~~forty percent-~~ 40% by weight of the soil size material nor shall the sand size material of greater than ~~fifty-~~ 50 microns be greater than ~~sixty-percent-~~ 60% by weight of the soil size material, when clay material content is less than ~~twenty-percent-~~ 20% by weight.
 - A) Rapid weathering coarse material, as determined by the Department, may be included in the root medium. If these fragments are allowed, they shall be included in the soil fraction for texture determination and shall not be included in the coarse fragment portion of texture evaluation.

DEPARTMENT OF NATURAL RESOURCES
NOTICE OF PROPOSED AMENDMENTS

13) Regulatory Agenda on which this rule was summarized: This rulemaking was not included on either of the 2 most recent regulatory agendas because: The Department neglected to file a regulatory agenda on this Part.

The full text of the Proposed Amendments begins on the next page:

DEPARTMENT OF NATURAL RESOURCES

NOTICE OF PROPOSED AMENDMENTS

- B) These texture requirements do not apply if the soil conditions of the affected land prior to mining did not meet the standards included herein (i.e., if more than ~~twenty percent~~ 20% coarse material by volume existed in the root medium below the darkened surface soil prior to mining, the same percentage or coarse material in the root medium will be allowed after mining; if more than ~~one-half~~ 1/2 of the coarse material consisted of rocks in the ~~three~~ 3 to ~~ten~~ 10 inch size category prior to mining, the same percentage will be permitted after mining; and if more than ~~forty-percent~~ 40% by weight of clay materials is less than ~~two~~ 2 microns in size; and if more than ~~sixty percent~~ 60% by weight of sand when clay material content is less than ~~twenty-percent~~ 20% by weight existed in the root medium below the darkened surface soil prior to mining, a like percentage by weight will be allowed after mining in the material under the darkened surface soil).
- 2) Chemical Properties. The materials under the darkened surface soil must be chemically suitable as an agricultural root medium. Toxic material capable of producing chemically unsuitable conditions shall not be incorporated within the material used to create the root zone established for these lands.
- 3) Depth. The combined vertical thickness of the darkened surface soil and the agricultural root medium must be at least ~~four~~ 4 feet in all cases, except where a natural rock formation occurs at shallower depths. In such case, the operator shall create a root medium of equivalent thickness to its pre-mining condition.
- 4) The darkened surface soil shall be replaced as the final earth cover on high capability lands.
- 5) Location of texture compliance samples will be determined by random methods. Texture analysis shall be determined by methods specified by the Department.
- b) The Department may alter the texture requirements under this Part only upon a clear and convincing showing that to vary such requirement would better effectuate the purposes of the Act than would enforcing the standards in this Part ~~herein~~.
- c) The affected land shall be graded to the approximate original contour of the land prior to mining. For the purpose of this Part, the slope classification of lands before mining are those lettered ranges developed by the U.S. Department of Agriculture, Natural Resources Conservation Service for use in preparing a soil survey of the area.
- d) Approximate original contour means grading of affected lands to a slope no greater than the maximum percent of the pre-mining slope range of the individual soil map units.
- e) Compaction.
- 1) The agricultural root medium described in subsection ~~Section 1825-14(a)~~ 1825-14(a) above shall be replaced and regraded to a uniform depth over the regraded spoil material in a manner that avoids

DEPARTMENT OF NATURAL RESOURCES

NOTICE OF PROPOSED AMENDMENTS

- excessive compaction or a compaction alleviation plan shall be provided. Excessive compaction is indicated by:
- A) Very firm, massive soil physical condition in any layer above the rooting medium depth required by subsection (a)(3) that has one-half or more of the soil volume in masses ~~ten~~ 10 inches or more in diameter that are not exploited by the root system;
- B) Roots restricted to a depth less than the required rooting medium depth;
- C) Confinement of roots to matrix desiccation cracks;
- D) Flattened roots; or
- E) Other diagnostic methods approved by the Department, in consultation with the Illinois Department of Agriculture and the U.S. Department of Agriculture, Natural Resources Conservation Service.
- 2) Compaction alleviation is required unless the permittee can demonstrate that root system development at similar depths in undisturbed soils typical of the mined area is no better than that observed in the reconstructed soil or if the permittee can demonstrate that the requirements of 62 Ill. Adm. Code 1816.116(a)(3)(C) ~~or 1816-117, as applicable~~ have been or could be met without compaction alleviation on areas reclaimed in a similar manner. However, the requirements of 62 Ill. Adm. Code 1816.116 or 1816.117 must still be met. The Department shall retain sufficient bond at the time of Phase II bond release if it determines that compaction alleviation may be needed to achieve the revegetation success requirements.
- 3) After approval of texture by the Department, the darkened surface soil shall be redistributed and graded to a uniform depth without excessive compaction over the replaced and regraded agricultural root medium.
- f) High capability lands shall have a planned erosion control system if expected soil loss from row crop production will exceed the tolerable soil loss limits as defined by "Resource Conservation Planning Technical Material-11-4" and subsequent revisions or modifications. Terrace systems, when utilized as part of a planned erosion control system, shall be constructed according to U.S. Department of Agriculture, Natural Resources Conservation Service specifications. Erosion control plans in compliance with this subsection shall be submitted to and approved by the Department prior to the completion of the final grading of an area, or on a time schedule approved by the Department after final grading based on seasonal factors, the extent of the area, and the sophistication of the erosion control plan.
- g) Slopes of all affected lands shall be measured from the drainage divide to the base of the slope or to the intermittent water course at the lowest point. Abrupt slope changes between these points are not acceptable except for unusual conditions such as ditches, terraces, and roads.

DEPARTMENT OF NATURAL RESOURCES

NOTICE OF PROPOSED AMENDMENTS

- h) The length of slope and contour of the restored surface shall be conducive to those farming operations normally associated with row crop production. Farming operations as used here shall include such measures or practices necessary to provide adequate drainage and erosion control for sustained row crop production.

(Source: Amended at 26 Ill. Reg. _____, effective _____)

DEPARTMENT OF NATURAL RESOURCES

NOTICE OF PROPOSED AMENDMENTS

- 1) Heading of the Part: State Enforcement
- 2) Code Citation: 62 Ill. Adm. Code 1843
- 3) Section Numbers: Proposed Action:
1843.13 Amend
- 4) Statutory Authority: Implementing and authorized by the Surface Coal Mining Land Conservation and Reclamation Act [225 ILCS 720].
- 5) A Complete Description of the Subjects and Issues Involved: This rulemaking is being amended to require the Department to notify the surety or other bond holder when a show cause order is issued to a permittee.
- 6) Will this rulemaking replace any emergency rule currently in effect? No
- 7) Does this rulemaking contain an automatic repeal date? No
- 8) Does this proposed amendment contain incorporations by reference? No
- 9) Are there any other proposed amendments pending on this Part? No
- 10) Statement of Statewide Policy Objectives: This rulemaking does not affect units of local government.
- 11) Time, Place and Manner in which interested persons may comment on this proposed rulemaking: Comments on the proposed rulemaking may be submitted in writing for a period of 45 days following publication of this Notice to:

Karen Jacobs
Department of Natural Resources
524 S. Second Street
Springfield IL 62701-1787
217/782-1809
- 12) Initial Regulatory Flexibility Analysis:
 - A) Types of small businesses, small municipalities and not for profit corporations affected: None
 - B) Reporting, bookkeeping or other procedures required for compliance: None
 - C) Types of professional skills necessary for compliance: None
- 13) Regulatory Agenda on which this rule was summarized: This rulemaking was not included on either of the 2 most recent regulatory agendas because:

DEPARTMENT OF NATURAL RESOURCES

NOTICE OF PROPOSED AMENDMENTS

The Department neglected to file a regulatory agenda on this Part.

The full text of the Proposed Amendment begins on the next page:

DEPARTMENT OF NATURAL RESOURCES

NOTICE OF PROPOSED AMENDMENTS

TITLE 62: MINING

CHAPTER I: DEPARTMENT OF NATURAL RESOURCES

PART 1843

STATE ENFORCEMENT

Section

1843.11 Cessation Orders

1843.12 Notices of Violation

1843.13 Suspension or Revocation of Permits

1843.14 Service of Notices of Violation, Cessation Orders, and Show Cause Orders

1843.15 Informal Public Hearing

1843.16 Formal Review of Citations (Repealed)

1843.17 Temporary Injunctive Relief (Repealed)

1843.18 Inability to Comply

1843.19 Injunctive Relief (Repealed)

1843.20 Intervention (Repealed)

1843.21 Discovery (Repealed)

1843.22 Petitions for Award of Costs and Expenses Under Section 525(e) of the Federal Act

1843.23 Enforcement Actions at Abandoned Sites

AUTHORITY: Implementing and authorized by the Surface Coal Mining Land Conservation and Reclamation Act [225 ILCS 720].

SOURCE: Adopted at 4 Ill. Reg. 37, p. 1, effective June 1, 1982; amended at 6 Ill. Reg. 1, effective June 1, 1982; amended at 6 Ill. Reg. 15024, effective December 30, 1982; codified at 8 Ill. Reg. 5932; amended at 9 Ill. Reg. 13334, effective October 10, 1985; amended at 11 Ill. Reg. 8536, effective July 1, 1987; amended at 14 Ill. Reg. 11906, effective January 1, 1991; amended at 17 Ill. Reg. 11095, effective July 1, 1993; amended at 20 Ill. Reg. 2136, effective January 19, 1996; recodified from the Department of Mines and Minerals to the Department of Natural Resources at 22 Ill. Reg. 7712; amended at 26 Ill. Reg. _____, effective _____.

Section 1843.13 Suspension or Revocation of Permits

a) Requirements.

- 1) The Department shall issue an order to a permittee requiring him to show cause why his permit and right to mine under the State Act should not be suspended or revoked, if the Department determines that a pattern of violations of any requirements of the Federal Act, the State Act, or 62 Ill. Adm. Code 1700 through 1850 or any permit condition exists or has existed, and that the violations were caused by the permittee willfully or through unwarranted failure to comply with those requirements or conditions. Violations by any person conducting surface coal

DEPARTMENT OF NATURAL RESOURCES

NOTICE OF PROPOSED AMENDMENTS

mining operations on behalf of the permittee shall be attributed to the permittee, unless the permittee establishes that they were acts of deliberate sabotage.

- 2) The Department may determine that a pattern of violations exists or has existed, based upon ~~two~~ 2 or more inspections of the permit area within any ~~twelve~~ 12 month period, after considering the circumstances, including:

- A) The number of violations, cited on more than one ~~11~~ occasion, of the same or related requirements of the Federal Act, the State Act, 62 Ill. Adm. Code 1700 through 1850 or the permit;
- B) The number of violations, cited on more than one ~~11~~ occasion of different requirements of the Federal Act, the State Act, 62 Ill. Adm. Code 1700 through 1850 or the permit; and
- C) The extent to which the violations were isolated departures from lawful conduct.

- 3) The Department shall promptly review the history of violations of any permittee who has been cited for violations of the same or related requirements of the Federal Act, the State Act, 62 Ill. Adm. Code 1700 through 1850 or the permit during ~~three~~ 3 or more State inspections of the permit area within any ~~twelve~~ 12 month period. If, after such review, the Department determines that a pattern of violations exists or has existed, an order to show cause as provided in subsection (a)(1) above shall be issued.

4) Considerations.

- A) In determining the number of violations within any ~~twelve~~ 12 month period, the Department shall consider only violations issued as a result of a State inspection carried out:

- i) During the permanent regulatory program; or
- ii) During the interim regulatory program and before the applicable State program was approved, pursuant to Section 502 or 504 of the Federal Act.

- B) The Department may not consider violations issued as a result of inspections other than those mentioned in subsection (a)(4)(A)(i) above in determining whether to exercise discretion under subsection (a)(2) above.

- b) Whenever a permittee fails to abate a violation contained in a notice of violation or a cessation order within the abatement period set in the notice or order or as subsequently extended, the Director or his or her designee shall review the permittee's history of violations to determine whether a pattern of violations exists pursuant to this Section, and shall issue as appropriate an order to show cause, which shall be subject to a hearing under 62 Ill. Adm. Code 1847.6.

- c) At the same time as the issuance of the order, the Department shall:

- 1) If practicable, publish notice of the order, including a brief

DEPARTMENT OF NATURAL RESOURCES

NOTICE OF PROPOSED AMENDMENTS

statement of the procedure for intervention in the proceeding, in a newspaper of general circulation in the area of the surface coal mining and reclamation operations; and

- 2) Post the notice at the regional, district or field office closest to the area of the surface coal mining and reclamation operation; and-

- 3) Notify in writing the surety or other bond holder of the issuance of the order.

- d) The permittee shall have ~~thirty~~ 30 days from the completion of service of a show cause order in which to file an answer and request a hearing in accordance with 62 Ill. Adm. Code 1847.6.

- e) If the Department revokes or suspends the permit and the permittee's right to mine the permittee shall immediately cease surface coal mining operations on the permit area and shall:
 - 1) If the permit and the right to mine are revoked, complete reclamation within the time specified in the order; or
 - 2) If the permit and the right to mine are suspended, complete all affirmative obligations to abate all conditions, practices, or violations, as specified in the order.

(Source: Amended at 26 Ill. Reg. _____, effective _____)

DEPARTMENT OF NATURAL RESOURCES

NOTICE OF PROPOSED AMENDMENTS

1) Heading of the Part: Surface Mining Permit Application--Minimum Requirements for Reclamation and Operation Plan

2) Code Citation: 62 Ill. Adm. Code 1780

3) Section Numbers:
1780.21 Proposed Action:
Amend

4) Statutory Authority: Implementing and authorized by the Surface Coal Mining Land Conservation and Reclamation Act [225 ILCS 720].

5) A Complete Description of the Subjects and Issues Involved: This rule is being amended to remove the Department's address to preclude having to do a rule change every time the address changes and to remove the reference to the Interagency Committee because it was abolished by Public Act 90-0490.

6) Will this rulemaking replace any emergency rulemaking currently in effect?
No

7) Does this rulemaking contain an automatic repeal date? No

8) Do these proposed amendments contain incorporations by reference? No

9) Are there any other proposed amendments pending on this Part? No

10) Statement of Statewide Policy Objectives: This rulemaking does not affect units of local government.

11) Time, Place and Manner in which interested persons may comment on this proposed rulemaking: Comments on the proposed rulemaking may be submitted in writing for a period of 45 days following publication of this Notice to:

Karen Jacobs
Department of Natural Resources
524 S. Second Street
Springfield IL 62701-1787
217/782-1809

12) Initial Regulatory Flexibility Analysis:

A) Types of small businesses, small municipalities and not for profit corporations affected: None

B) Reporting, bookkeeping or other procedures required for compliance:
None

DEPARTMENT OF NATURAL RESOURCES

NOTICE OF PROPOSED AMENDMENTS

C) Types of professional skills necessary for compliance: None

13) Regulatory Agenda on which this rule was summarized: This rulemaking was not included on either of the 2 most recent regulatory agendas because: The Department neglected to file a regulatory agenda on this Part.

The full text of the Proposed Amendments begins on the next page:

DEPARTMENT OF NATURAL RESOURCES

NOTICE OF PROPOSED AMENDMENTS

TITLE 62: MINING

CHAPTER I: DEPARTMENT OF NATURAL RESOURCES

PART 1780

SURFACE MINING PERMIT APPLICATION--MINIMUM
REQUIREMENTS FOR RECLAMATION AND OPERATION PLAN

Section	
1780.4	Responsibilities
1780.5	Use of Existing Data
1780.6	Use of Expert Opinion
1780.11	Operation Plan: General Requirements
1780.12	Operation Plan: Existing Structures
1780.13	Operation Plan: Blasting
1780.14	Operation Plan: Maps and Plans
1780.15	Air Pollution Control Plan
1780.16	Fish and Wildlife Plan
1780.18	Reclamation Plan: General Requirements
1780.21	Hydrologic Information
1780.22	Geologic Information
1780.23	Reclamation Plan: Pre-Mining and Post-Mining Information
1780.25	Reclamation Plan: Siltation Structures, Impoundments, Banks, Dams, and Embankments
1780.27	Reclamation Plan: Surface Mining Near Underground Mining
1780.29	Diversions
1780.31	Protection of Public Parks and Historic Places
1780.33	Relocation or Use of Public Roads
1780.35	Disposal of Excess Spoil
1780.37	Transportation Facilities
1780.38	Rehabilitation of Siltation Structures, Diversions, Impoundments, and Treatment Facilities (Repealed)
1780.39	Support Facilities

AUTHORITY: Implementing and authorized by the Surface Coal Mining Land Conservation and Reclamation Act [225 ILCS 720].

SOURCE: Adopted at 4 Ill. Reg. 37, p. 1, effective June 1, 1982; amended at 6 Ill. Reg. 1, effective June 1, 1982; codified at 8 Ill. Reg. 8511; amended at 11 Ill. Reg. 8602, effective July 1, 1987; amended at 14 Ill. Reg. 11911, effective January 1, 1991; amended at 15 Ill. Reg. 17294, effective January 1, 1992; amended at 17 Ill. Reg. 11122, effective July 1, 1993; amended at 20 Ill. Reg. 2141, effective January 19, 1996; recodified from the Department of Mines and Minerals to the Department of Natural Resources at 22 Ill. Reg. 7712; amended at 24 Ill. Reg. 5992, effective March 21, 2000; amended at 26 Ill. Reg. _____, effective _____.

Section 1780.21 Hydrologic Information

DEPARTMENT OF NATURAL RESOURCES

NOTICE OF PROPOSED AMENDMENTS

- a) All water quality analyses performed to meet the requirements of this Section shall be conducted according to the methodology in the 15th edition of "Standard Methods for the Examination of Water and Wastewater," (1980) which is incorporated by reference, or the methodology in 40 CFR 136 and 434. Water quality sampling performed to meet the requirements of this Section shall be conducted according to either methodology listed above when feasible. "Standard Methods for the Examination of Water and Wastewater" (1980) is a joint publication of the American Public Health Association, the American Water Works Association and the Water Pollution Control Federation and is available from the American Public Health Association, 1015 15th Street, NW, Washington, D.C. 20036. This document is also available for inspection at the Department's Springfield office and Reclamation Division--Office--of--Mines--and--Minerals--Department--of--Natural Resources--524-S--Second-Street--Springfield--Illinois-62701-1787.
- b) The application shall contain the following baseline hydrologic information. When this information is insufficient for the Department to determine if adverse impacts may result to the hydrologic balance, additional information shall be required, such as but not limited to water supply contamination or diminution.

- 1) Ground water information. The location and ownership for the permit and adjacent area of existing wells, springs, and other ground water resources, seasonal quality and quantity of ground water, and usage.

A) Ground water quality descriptions shall include, at a minimum, pH, total dissolved solids, hardness, alkalinity, acidity, sulfates, total iron and total manganese. The Department shall allow the measurement of specific conductance in lieu of total dissolved solids if the permittee develops site-specific relationships precisely correlating specific conductance to total dissolved solids for specific sites for all zones being monitored.

B) Ground water quantity descriptions shall include, at a minimum, rates of discharge or usage and elevation of the potentiometric surface in the coal to be mined, in each water-bearing stratum above the coal to be mined, and in each water-bearing stratum which may be potentially impacted below the coal to be mined.

- 2) Surface water information. The name, location, ownership, and description of all surface water bodies, such as streams, lakes, and impoundments, the location of any discharge into any surface water body in the proposed permit and adjacent areas, and information on surface water quality and quantity sufficient to demonstrate seasonal variation and water usage.

A) Water quality descriptions shall include, at a minimum, baseline information on pH, total suspended solids, total dissolved solids, alkalinity, acidity, sulfates, total iron and total manganese. The Department shall allow the

DEPARTMENT OF NATURAL RESOURCES

NOTICE OF PROPOSED AMENDMENTS

measurement of specific conductance in lieu of total dissolved solids if the permittee develops site-specific relationships precisely correlating specific conductance to total dissolved solids for specific sites for all surface water points being monitored.

B) Water quantity descriptions shall include, at a minimum, baseline information on seasonal flow rates.

- 3) If the determination of probable hydrologic consequences required by subsection (f) below indicates that adverse impacts on or off the proposed permit area may occur to the hydrologic balance, or that acid-forming or toxic-forming material is present that may result in the contamination of ground or surface water supplies, then information supplemental to that required under subsections (b)(1) and (2) above shall be provided to evaluate such probable hydrologic consequences and to plan remedial and reclamation activities. Such supplemental information shall be based upon drilling, hydrogeologic analyses of water-bearing strata, flood flows, or analysis of other water quality or quantity characteristics.

c) Baseline cumulative impact area information.

- 1) Hydrologic and geologic information for the cumulative impact area necessary to assess the probable cumulative hydrologic impacts of the proposed operation and all anticipated mining on surface and ground water systems as required by subsection (g) below shall be provided to the Department, if available from appropriate Federal or State agencies.

- 2) If the information is not available from such agencies, then the applicant may gather and submit this information to the Department as part of the permit application.

- 3) The permit shall not be approved until the necessary hydrologic and geologic information is available to the Department.

d) The use of modeling techniques, interpolation or statistical techniques may be included as part of the permit application if such techniques will enhance the evaluation of hydrological impacts, but actual surface and ground water information may be required by the Department for the purposes of calibration of such models for each site even when such techniques are used.

e) If the determination of probable hydrologic consequences required in subsection (f) below indicates that the proposed mining operation may proximately result in the contamination, diminution, or interruption of an underground or surface water source of water within the proposed permit or adjacent areas which is used for domestic, agricultural, industrial, or other legitimate purpose, then the application shall contain information on water availability and alternative water sources, including the suitability of the alternate water source for existing premining uses and approved post-mining land uses.

f) Determination of the probable hydrologic consequences (PHC).

- 1) The application shall contain a determination of the probable

DEPARTMENT OF NATURAL RESOURCES

NOTICE OF PROPOSED AMENDMENTS

hydrologic consequences of the proposed surface mining activities, on the proposed permit area and adjacent area, with respect to the hydrologic regime and the quantity and quality of water in surface and ground water systems under all seasonal conditions, including the contents of dissolved and total suspended solids, total iron, pH, total manganese, and other parameters required by the Department if such parameters are necessary to assure an accurate determination of probable hydrologic consequences.

- 2) The PHC determination shall be based on baseline hydrologic, geologic and other information collected for the permit application and may include data statistically representative of the site.

- 3) The PHC determination shall include findings on:

A) Whether adverse impacts may occur to the hydrologic balance;

B) Whether acid-forming or toxic-forming materials are present that could result in the contamination of surface or ground water supplies;

C) Whether the proposed operation may proximately result in contamination, diminution or interruption of an underground or surface source of water within the proposed permit or adjacent areas which is used for domestic, agricultural, industrial, or other legitimate purposes such as recreational and fish and wildlife uses; and

D) What impact the proposed operation will have on:

i) sediment yield from the disturbed area;

ii) acidity, total suspended and dissolved solids, and other important water quality parameters of local impact;

iii) flooding or stream-flow alteration;

iv) ground water and surface water availability; and

v) other characteristics as required by the Department, based upon public comment~~7~~---interagency---Committee comment~~7~~, and the Department's technical review.

- 4) An application for permit revision shall be reviewed by the Department to determine whether a new or updated PHC determination shall be required.

g) Cumulative hydrologic impact assessment.

- 1) The Department shall provide an assessment of the probable cumulative hydrologic impacts of the proposed operation and all anticipated mining upon surface and ground water systems in the cumulative impact area. This assessment shall be sufficient for purposes of permit approval, to determine whether the proposed operation has been designed to prevent material damage to the hydrologic balance outside the permit area. The Department shall allow the submittal of data and analyses by the permittee in accordance with subsection (c) above.

- 2) An application for a permit revision shall be reviewed by the

DEPARTMENT OF NATURAL RESOURCES

NOTICE OF PROPOSED AMENDMENTS

Department to determine whether a new or updated assessment shall be required.

- h) The application shall include a plan with maps and descriptions, indicating how the relevant requirements of 62 Ill. Adm. Code 1816.41 through 1816.43 will be met. The plan shall be specific to local hydrologic conditions. It shall contain steps to be taken during mining and reclamation through bond release to minimize disturbances to the hydrologic balance within the permit and adjacent areas; to prevent material damage outside the permit area; to meet the applicable Federal and State water quality laws and regulations and to protect the rights of present water users. The plan shall include the measures to be taken to avoid acid or toxic drainage; prevent, to the extent possible using the best technology currently available, additional contributions of suspended solids to streamflow; provide water treatment facilities when needed; control drainage; restore approximate premining recharge capacity and protect or replace rights of present water users. The plan shall specifically address any potential adverse hydrologic consequences identified in subsection (f) and shall include preventative and remedial measures.

- i) Ground water monitoring plan.

- 1) The application shall include a ground water monitoring plan based upon the determination of probable hydrologic consequences required under subsection (f) and the analyses of all baseline hydrologic, geologic and other information in the permit application. The plan shall provide for the monitoring of parameters that relate to the suitability of the ground water for current and approved post-mining land uses and to the objectives for protection of the hydrologic balance set forth in subsection (h) above. It shall identify the quantity and quality parameters to be monitored, sampling frequency and site locations. It shall describe how the data may be used to determine the impacts of the operation on the hydrologic balance. At a minimum, the parameters to be monitored shall include pH, total dissolved solids, hardness, alkalinity, acidity, sulfates, total iron, total manganese and water levels. The Department shall allow the measurement of specific conductance in lieu of total dissolved solids if the permittee develops site-specific relationships precisely correlating specific conductance to total dissolved solids for specific sites for all zones being monitored. Data shall be submitted to the Department every three months for each monitoring location. The Department may require additional monitoring, such as increased parameters or frequency, if it is determined that the existing or proposed monitoring program is not designed to detect adverse impacts to the hydrologic balance.
- 2) If an applicant can demonstrate by the use of the probable hydrologic consequences determination and other available information that a particular water-bearing stratum in the proposed permit and adjacent areas is not one which serves as an

DEPARTMENT OF NATURAL RESOURCES

NOTICE OF PROPOSED AMENDMENTS

aquifer which significantly ensures the hydrologic balance within the cumulative impact area, then monitoring of that stratum may be waived by the Department.

- j) Surface water monitoring plan.

- 1) The application shall include a surface water monitoring plan based upon the determination of probable hydrologic consequences required in subsection (f) above and the analysis of all baseline hydrologic, geologic and other information in the permit application. The plan shall provide for the monitoring of parameters that relate to the suitability of the surface water for current and approved post-mining land uses, to the objectives for protection of the hydrologic balance set forth in subsection (h) above and the effluent limitations in 40 CFR 434.

- 2) The plan shall identify the surface water quantity and quality parameters to be monitored, sampling frequency and site locations. It shall describe how the data may be used to determine the impacts of the operation upon the hydrologic balance.

- A) At all monitoring locations in the surface water bodies such as streams, lakes and impoundments, that are potentially impacted or into which water will be discharged and at upstream monitoring locations pH, total dissolved solids, total suspended solids, alkalinity, acidity, sulfates, total iron, total manganese and flow shall be monitored. The Department shall allow the measurement of specific conductance in lieu of total dissolved solids if the permittee develops site-specific relationships precisely correlating specific conductance to total dissolved solids for specific sites for all locations being monitored.

- B) For point-source discharges, monitoring shall be conducted in accordance with 40 CFR 122, 123 and 434 and as required by the Illinois Environmental Protection Agency (IEPA).

- 3) All surface water monitoring reports, including those required by the IEPA, shall be submitted to the Department every three-~~6~~ 3 months. The Department shall require additional monitoring if it is determined that the existing or proposed monitoring plan is not adequate to detect adverse impacts to the hydrologic balance.

(Source: Amended at 26 Ill. Reg. _____, effective _____)

DEPARTMENT OF NATURAL RESOURCES

NOTICE OF PROPOSED AMENDMENTS

1) Heading of the Part: Underground Mining Permit Applications-Minimum Requirements for Reclamation and Operation Plan

2) Code Citation: 62 Ill. Adm. Code 1784

3) Section Numbers: Proposed Action:
1784.14 Amend

4) Statutory Authority: Implementing and authorized by the Surface Coal Mining Land Conservation and Reclamation Act [225 ILCS 720].

5) A Complete Description of the Subjects and Issues Involved: This rule is being amended to remove the Department's address to preclude having to do a rule change every time the address changes and to remove reference to the Interagency Committee because it was abolished by Public Act 90-0490.

6) Will this rulemaking replace any emergency rule currently in effect? No

7) Does this rulemaking contain an automatic repeal date? No

8) Do these proposed amendments contain incorporations by reference? No

9) Are there any other proposed amendments pending on this Part? No

10) Statement of Statewide Policy Objectives: This rulemaking does not affect units of local government.

11) Time, Place and Manner in which interested persons may comment on this proposed rulemaking: Comments on the proposed rulemaking may be submitted in writing for a period of 45 days following publication of this Notice to:

Karen Jacobs
Department of Natural Resources
524 S. Second Street
Springfield IL 62701-1787
217/782-1809

12) Initial Regulatory Flexibility Analysis:

A) Types of small businesses, small municipalities and not for profit corporations affected: None

B) Reporting, bookkeeping or other procedures required for compliance: None

C) Types of professional skills necessary for compliance: None

13) Regulatory Agenda on which this rule was summarized: This rulemaking was

DEPARTMENT OF NATURAL RESOURCES

NOTICE OF PROPOSED AMENDMENTS

not included on either of the 2 most recent regulatory agendas because:
The Department neglected to file a regulatory agenda on this Part.

The full text of the Proposed Amendments begins on the next page:

DEPARTMENT OF NATURAL RESOURCES

NOTICE OF PROPOSED AMENDMENTS

TITLE 62: MINING

CHAPTER I: DEPARTMENT OF NATURAL RESOURCES

PART 1784

UNDERGROUND MINING PERMIT APPLICATIONS--MINIMUM REQUIREMENTS FOR RECLAMATION AND OPERATION PLAN

Section	
1784.4	Responsibilities
1784.5	Use of Existing Data
1784.6	Use of Expert Opinion
1784.11	Operation Plan: General Requirements
1784.12	Operation Plan: Existing Structures
1784.13	Reclamation Plan: General Requirements
1784.14	Hydrologic Information
1784.15	Reclamation Plan: Pre-Mining and Post-Mining Information
1784.16	Reclamation Plan: Siltation Structures, Impoundments, Banks, Dams, and Embankments
1784.17	Protection of Public Parks and Historic Places
1784.18	Relocation or Use of Public Roads
1784.19	Underground Development Waste
1784.20	Subsidence Control Plan
1784.21	Fish and Wildlife Plan
1784.22	Geologic Information
1784.23	Operation Plan: Maps and Plans
1784.24	Transportation Facilities
1784.25	Return of Coal Processing Waste to Abandoned Underground Workings
1784.26	Air Pollution Control Plan
1784.27	Rehabilitation of Siltation Structures, Diversions, Impoundments, and Treatment Facilities (Repealed)
1784.29	Diversions
1784.30	Support Facilities

AUTHORITY: Implementing and authorized by the Surface Coal Mining Land Conservation and Reclamation Act [225 ILCS 720].

SOURCE: Adopted at 4 Ill. Reg. 37, p. 1, effective June 1, 1982; amended at 6 Ill. Reg. 1, effective June 1, 1982; codified at 8 Ill. Reg. 9350; amended at 11 Ill. Reg. 8652, effective July 1, 1987; amended at 14 Ill. Reg. 11935, effective January 1, 1991; amended at 15 Ill. Reg. 17301, effective January 1, 1992; amended at 17 Ill. Reg. 11135, effective July 1, 1993; amended at 20 Ill. Reg. 2166, effective January 19, 1996; recodified from the Department of Mines and Minerals to the Department of Natural Resources at 22 Ill. Reg. 7712; amended at 24 Ill. Reg. 5998, effective March 21, 2000; amended at 26 Ill. Reg. _____, effective _____.

Section 1784.14 Hydrologic Information

DEPARTMENT OF NATURAL RESOURCES

NOTICE OF PROPOSED AMENDMENTS

- a) All water quality analyses performed to meet the requirements of this Section shall be conducted according to the methodology in the 15th edition of "Standard Methods for the Examination of Water and Wastewater" (1980), which is incorporated by reference, or the methodology in 40 CFR 136 and 434. Water quality sampling performed to meet the requirements of this Section shall be conducted according to either methodology listed above when feasible. "Standard Methods for the Examination of Water and Wastewater" (1980) is a joint publication of the American Public Health Association, the American Water Works Association and the Water Pollution Control Federation and is available from the American Public Health Association, 1015 15th Street, NW, Washington, D.C. 20036. This document is also available for inspection at the Department's Springfield office Band-Reclamation Division--Office of Mines and Minerals--300--West--Jefferson--Street--Suite-300--P.O.-Box-10197--Springfield, Illinois-62791-0197.
- b) The application shall contain the following baseline hydrologic information. When this information is insufficient for the Department to determine if adverse impacts may result to the hydrologic balance, additional information shall be required, such as but not limited to water supply contamination or diminution.
- 1) Ground water information.
- The location and ownership for the permit, shadow and adjacent area of existing wells, springs, and other ground water resources, seasonal quality and quantity of ground water and usage.
- A) Ground water quality descriptions shall include, at a minimum:
- i) for the permit area and its adjacent area, pH, total dissolved solids, hardness, alkalinity, acidity, sulfates, total iron, total manganese and chlorides. The Department shall allow the measurement of specific conductance in lieu of total dissolved solids if the permittee develops site-specific relationships precisely correlating specific conductance to total dissolved solids for specific sites for all zones being monitored.
- ii) for the shadow area and its adjacent area, pH, total dissolved solids, total iron and total manganese. The Department shall allow the measurement of specific conductance in lieu of total dissolved solids if the permittee develops site-specific relationships precisely correlating specific conductance to total dissolved solids for specific sites for all zones being monitored.
- B) Ground water quantity descriptions for the permit, shadow and adjacent areas shall include, at a minimum, rates of discharge or usage and elevation of the potentiometric surface in the coal to be mined, in each water-bearing

DEPARTMENT OF NATURAL RESOURCES

NOTICE OF PROPOSED AMENDMENTS

stratum above the coal to be mined, and in each water-bearing stratum which may be potentially impacted below the coal to be mined.

- 2) Surface water information.

The name, location, ownership, and description of all surface water bodies, such as streams, lakes, and impoundments, the location of any discharge into any surface water body in the proposed permit and adjacent areas, and information on surface water quality and quantity sufficient to demonstrate seasonal variation and water usage.

 - A) Water quality descriptions shall include, at a minimum, baseline information on pH, total suspended solids, total dissolved solids, alkalinity, acidity, sulfates, total iron, total manganese and chlorides. The Department shall allow the measurement of specific conductance in lieu of total dissolved solids if the permittee develops site-specific relationships precisely correlating specific conductance to total dissolved solids for specific sites for all surface water points being monitored.
 - B) Water quantity descriptions shall include, at a minimum, baseline information on seasonal flow rates.
- 3) If the determination of probable hydrologic consequences required by subsection (e) indicates that adverse impacts on or off the proposed permit area may occur to the hydrologic balance, or that acid-forming or toxic-forming material is present that may result in the contamination of ground or surface water supplies, then information supplemental to that required under subsections (b)(1) and (2) shall be provided to evaluate such probable hydrologic consequences and to plan remedial and reclamation activities. Such supplemental information shall be based upon drilling, hydrogeologic analyses of water-bearing strata, flood flows, or analysis of other water quality or quantity characteristics.
- c) Baseline cumulative impact area information.
 - 1) Hydrologic and geologic information for the cumulative impact area necessary to assess the probable cumulative hydrologic impacts of the proposed operation and all anticipated mining on surface and ground water systems as required by subsection (f) below shall be provided to the Department, if available from appropriate Federal or State agencies.
 - 2) If the information is not available from such agencies, then the applicant may gather and submit this information to the Department as part of the permit application.
 - 3) The permit shall not be approved until the necessary hydrologic and geologic information is available to the Department.
- d) The use of modeling techniques, interpolation or statistical techniques may be included as part of the permit application if such techniques will enhance the evaluation of hydrological impacts, but

DEPARTMENT OF NATURAL RESOURCES

NOTICE OF PROPOSED AMENDMENTS

actual surface and ground water information may be required by the Department for the purposes of calibration of such models for each site even when such techniques are used.

- e) Determination of the probable hydrologic consequences (PHC).
 - 1) The application shall contain a determination of the probable hydrologic consequences of the proposed operation on the proposed permit area, shadow area and adjacent area, with respect to the hydrologic regime and the quantity and quality of water in surface and ground water systems under all seasonal conditions, including the contents of dissolved and total suspended solids, total iron, pH, total manganese, and other parameters required by the Department if such parameters are necessary to assure an accurate determination of probable hydrologic consequences on a site-specific basis.
 - 2) The PHC determination shall be based on baseline hydrologic, geologic and other information collected for the permit application and may include data statistically representative of the site.
 - 3) The PHC determination shall include findings on:
 - A) Whether adverse impacts may occur to the hydrologic balance;
 - B) Whether acid-forming or toxic-forming materials are present that could result in the contamination of surface-or ground-water supplies;
 - C) What impact the proposed operation will have on:
 - i) sediment yield from the disturbed areas;
 - ii) acidity, total suspended and dissolved solids, and other important water quality parameters of local impact;
 - iii) flooding or stream-flow alteration;
 - iv) ground-water and surface-water availability; and
 - v) other characteristics as required by the Department, based upon public comment, ~~interagency~~ **interagency** ~~comment~~ **comment** and the Department's technical review; and
 - D) Whether the underground mining activities conducted after January 19, 1996 may result in contamination, diminution or interruption of a well or spring in existence at the time the permit application is submitted and used for domestic, drinking or residential purposes within the permit, shadow or adjacent areas.
 - 4) An application for a permit revision shall be reviewed by the Department to determine whether a new or updated PHC determination shall be required.
 - f) Cumulative hydrologic impact assessment.
 - 1) The Department shall provide an assessment of the probable cumulative hydrologic impacts of the proposed operation and all anticipated mining upon surface and ground water systems in the cumulative impact area. This assessment shall be sufficient for purposes of permit approval, to determine whether the proposed

DEPARTMENT OF NATURAL RESOURCES

NOTICE OF PROPOSED AMENDMENTS

operation has been designed to prevent material damage to the hydrologic balance outside the permit area. The Department shall allow the submittal of data and analyses by the permittee in accordance with subsection (c).

- 2) An application for a permit revision shall be reviewed by the Department to determine whether a new or updated assessment shall be required.

- g) The application shall include a plan with maps and descriptions, indicating how the relevant requirements of 62 Ill. Adm. Code 1817, including 62 Ill. Adm. Code 1817.41 through 1817.43, will be met. The plan shall be specific to local hydrologic conditions. It shall contain steps to be taken during mining and reclamation, through bond release, to minimize disturbances to the hydrologic balance within the permit, shadow, and adjacent areas; to prevent material damage outside the permit area; to meet the applicable Federal and State water quality laws and regulations. The plan shall include the measures to be taken to avoid acid or toxic drainage; prevent, to the extent possible using the best technology currently available, additional contributions of suspended solids to streamflow; provide water treatment facilities when needed; control drainage; restore approximate premining recharge capacity. The plan shall specifically address any potential adverse hydrologic consequences identified in subsection (e) and shall include preventative and remedial measures.

- h) Ground water monitoring plan.

- 1) The application shall include a ground water monitoring plan based upon the determination of probable hydrologic consequences required under subsection (e) and the analyses of all baseline hydrologic, geologic and other information in the permit application. The plan shall provide for the monitoring of parameters that relate to the suitability of the ground water for current and approved post-mining land uses and to the objectives for protection of the hydrologic balance set forth in subsection (g). It shall identify the quantity and quality parameters to be monitored, sampling frequency and site locations. It shall describe how the data may be used to determine the impacts of the operation on the hydrologic balance. At a minimum, the parameters to be monitored shall include pH, total dissolved solids, hardness, alkalinity, acidity, sulfates, total iron, total manganese and water levels. The Department shall allow the measurement of specific conductance in lieu of total dissolved solids if the permittee develops site-specific relationships precisely correlating specific conductance to total dissolved solids for specific sites for all zones being monitored. Data shall be submitted to the Department every three months for each monitoring location. The Department may require additional monitoring, such as increased parameters or frequency, if it is determined that the existing or proposed monitoring program is not designed to detect adverse impacts to the hydrologic balance.

DEPARTMENT OF NATURAL RESOURCES

NOTICE OF PROPOSED AMENDMENTS

- 2) If an applicant can demonstrate by the use of the probable hydrologic consequences determination and other available information that a particular water-bearing stratum in the proposed permit and adjacent areas is not one which serves as an aquifer which significantly ensures the hydrologic balance within the cumulative impact area, then monitoring of that stratum may be waived by the Department.

- i) Surface water monitoring plan.

- 1) The application shall include a surface water monitoring plan based upon the determination of probable hydrologic consequences required in subsection (e) and the analysis of all baseline hydrologic, geologic and other information in the permit application. The plan shall provide for monitoring of parameters that relate to the suitability of the surface water for current and approved post-mining land uses, to the objectives for protection of the hydrologic balance as set forth in subsection (g), and to the effluent limitations in 40 CFR 434.

- 2) The plan shall identify the surface water quantity and quality parameters to be monitored, sampling frequency and site locations. It shall describe how the data may be used to determine the impacts of the operation upon the hydrologic balance.

- A) At all monitoring locations in the surface water bodies such as streams, lakes and impoundments, that are potentially impacted or into which water will be discharged and at upstream monitoring locations, pH, total dissolved solids, total suspended solids, alkalinity, acidity, sulfates, total iron, total manganese and flow shall be monitored. The Department shall allow the measurement of specific conductance in lieu of total dissolved solids if the permittee develops site-specific relationships precisely correlating specific conductance to total dissolved solids for specific sites for all locations being monitored.

- B) For point-source discharges, monitoring shall be conducted in accordance with 40 CFR 122, 123 and 434 and as required by the Illinois Environmental Protection Agency (IEPA).

- 3) All surface water monitoring reports, including those required by the IEPA, shall be submitted to the Department every three months. The Department shall require additional monitoring if it is determined that the existing or proposed monitoring plan is not adequate to detect adverse impacts to the hydrologic balance.

(Source: Amended at 26 Ill. Reg. _____, effective _____)

DEPARTMENT OF NUCLEAR SAFETY

NOTICE OF PROPOSED RULES

- 1) Heading of the Part: Registration and Reporting Requirements for Radiation Machine Service Providers

- 2) Code Citation: 32 Ill. Adm. Code 322

- 3) Section Number: Proposed Action:

322.10	New Section
322.20	New Section
322.30	New Section
322.40	New Section
322.50	New Section
322.60	New Section
322.70	New Section
322.80	New Section
322.90	New Section

- 4) Statutory Authority: Implementing and authorized by Section 40/25.2 of the Radiation Protection Act of 1990 [420 ILCS 40/25.2] (P.A. 92-0273, effective August 7, 2001).

- 5) A Complete Description of the Subjects and Issues Involved: The Department is proposing this rule to establish registration and reporting requirements for persons who install or provide service for radiation machines. All radiation machine service providers who install or service x-ray machines are required to register with the Department. Operators of radiation installations already registered under the Radiation Protection Act of 1990 shall not be required to register again to repair their own machines using their own personnel. Service providers shall also be required to report the installation of all machines and to report any service of machines performed in radiation installations that have not registered with the Department.

- 6) Will these proposed rules replace any emergency rules currently in effect?
No

- 7) Does this rulemaking contain an automatic repeal date? No

- 8) Do these proposed rules contain incorporations by reference? Yes

- 9) Are there any other proposed rules pending on this Part? No

- 10) Statement of Statewide Policy Objectives: The requirements imposed by the proposed rulemaking are not expected to require local governments to establish, expand, or modify their activities in such a way as to necessitate additional expenditures from local revenues.

- 11) Time, Place and Manner in which interested persons may comment on this proposed rulemaking: Comments on this proposed rulemaking may be

DEPARTMENT OF NUCLEAR SAFETY

NOTICE OF PROPOSED RULES

submitted in writing for a period of 45 days following publication of this Notice. The Department will consider fully all written comments on this proposed rulemaking submitted during the 45 day comment period. Comments should be submitted to:

Robert B. Holtsclaw
Senior Staff Attorney
Department of Nuclear Safety
1035 Outer Park Drive
Springfield, Illinois 62704
(217) 524-0770 (voice)
(217) 782-6133 (TDD)

- 12) Initial Regulatory Flexibility Analysis:

A) Types of small businesses, small municipalities or not for profit corporations affected: The Department believes that this rulemaking will have a direct impact on small businesses that install or service radiation machines.

B) Reporting, bookkeeping or other procedures required for compliance: Reporting and other procedures required for compliance are contained in Sections 322.50, 322.60 and 322.80.

C) Types of professional skills necessary for compliance: There are no professional skills necessary for compliance with this rule.

- 13) Regulatory Agenda on which this rulemaking was summarized: This rulemaking was not included in either of the 2 most recent regulatory agendas because: This rulemaking was not anticipated by the Department when the regulatory agendas were published.

The full text of the Proposed Rules begins on the next page:

DEPARTMENT OF NUCLEAR SAFETY
NOTICE OF PROPOSED RULES

TITLE 32: ENERGY
CHAPTER II: DEPARTMENT OF NUCLEAR SAFETY
SUBCHAPTER b: RADIATION PROTECTION

PART 322

Registration and Reporting Requirements for Radiation Machine Service Providers

Section	Purpose and Scope
322.10	Incorporations by Reference
322.20	Definitions
322.30	Exemptions
322.40	Registration
322.50	Fees
322.60	Training Requirements for Individuals Who Install or Service Radiation Machines
322.70	Reporting and Recordkeeping Requirements for Radiation Machine Service Providers
322.80	Penalties

AUTHORITY: Implementing and authorized by Section 25.2 of the Radiation Protection Act of 1990 [420 ILCS 40/25.2] (see P.A. 92-0273, effective August 7, 2001).

SOURCE: Adopted at 26 Ill. Reg. _____, effective _____.

Section 322.10 Purpose and Scope

The purpose of this Part is to establish registration and reporting requirements, pursuant to the Radiation Protection Act of 1990 (Act) [420 ILCS 40] for persons who install or service radiation machines. Except as otherwise specifically exempted, this Part applies to all individuals or entities that install or service radiation machines.

Section 330.20 Incorporations by Reference

All rules, standards and guidelines of agencies of the United States or nationally recognized organizations or associations that are incorporated by reference in this Part are incorporated as of the date specified in the reference and do not include any later amendments or editions. Copies of these rules, standards and guidelines that have been incorporated by reference are available for public inspection at the Department of Nuclear Safety, 1035 Outer Park Drive, Springfield, Illinois.

Section 322.30 Definitions

DEPARTMENT OF NUCLEAR SAFETY
NOTICE OF PROPOSED RULES

The following definitions are applicable for use in this Part only. Additional definitions for use in this Part are located in 32 Ill. Adm. Code 310.20 and 320.10.

"Installation" or "Install" means the assembly, placement, or other actions including, but not limited to, initial calibration or operability checks that allow a radiation machine to be used in a new location or after being moved from one location to another.

"Radiation machine" means any device that produces radiation when in use, except those that produce radiation only from radioactive materials.

"Service" means the repair, calibration, routine maintenance or other checks or examinations performed on a radiation machine, other than those actions taken during the installation of a radiation machine.

"Radiation machine service provider" means any individual, company, or other entity required to be registered under this Part to install or service radiation machines.

Section 322.40 Exemptions

An operator of a radiation installation that is registered with the Department under 32 Ill. Adm. Code 320 is not required to register pursuant to this Part to service the radiation machines that it owns or leases when the work is performed by employees of the operator.

Section 322.50 Registration

- Each radiation machine service provider that intends to install or service radiation machines in the State of Illinois shall register with the Department within 60 days after the effective date of this Part or prior to initially furnishing or offering to furnish any such service and annually thereafter.
- Registration shall be on a form prescribed by the Department that shall include, but shall not be limited to:
 - Name, street address, and telephone number of the radiation machine service provider;
 - Name, address, and telephone number of the individual responsible for the activities of the radiation machine service provider.
- The Department shall maintain a listing of registered radiation machine service providers.

AGENCY NOTE: Registration under this Part is required for all entities that install radiation machines. It is the Department's intent to require registration of businesses. Individuals are not required to register unless they are radiation machine service providers engaged in business as sole proprietors.

DEPARTMENT OF NUCLEAR SAFETY
NOTICE OF PROPOSED RULES

Section 322.60 Fees

All radiation machine service providers shall pay an annual non-refundable registration fee of \$100. All new radiation machine service providers shall pay a registration fee of \$100, which shall serve as the registration fee for the remainder of the calendar year. The fee shall be due and payable within 60 days after the date of billing. Failure to pay the required fee within the 60 day timeframe shall result in the removal of authorization by the Department to provide radiation machine services in the State of Illinois or other actions consistent with the Act.

Section 322.70 Training Requirements for Individuals Who Install or Service Radiation Machines

Each radiation machine service provider shall provide appropriate training to the individuals who install or service radiation machines for the radiation machine service provider.

Section 322.80 Reporting and Recordkeeping Requirements for Radiation Machine Service Providers

a) A radiation machine service provider who installs a radiation machine in the State of Illinois must report the installation to the Department. [420 ILCS 40/25.2(b)]

1) A radiation machine service provider shall submit the following information in writing to the Department within 15 days after installation:

- A) The installation date.
- B) The name, street address, telephone number, and registration number of the facility where the radiation machine was installed;
- C) The type of radiation machine, the manufacturer's name, model number and control panel serial number of each radiation machine; and
- D) Name of the individual that installed the radiation machine.

2) In the case of diagnostic x-ray systems that contain certified components, and in lieu of subsection (a)(1), a copy of the assembler's report on United States Food and Drug Administration (FDA) form 2579, prepared in compliance with requirements of the federal diagnostic x-ray standard (21 CFR 1020.30(d)), shall be submitted to the Department within 15 days following completion of the assembly. Such report, when completed in full, shall suffice in lieu of any other assembly report submitted by the assembler to the Department.

b) Radiation machine service providers shall maintain a log or other record of radiation machines installed or serviced in the State of Illinois. The record shall be maintained for 5 years for inspection by the Department and shall list the following information:

- 1) Date machine was installed or service was provided;
 - 2) Name of customer, street address, telephone number, and customer's radiation installation registration number;
 - 3) The type of radiation machine, the manufacturer's name, model number and control panel serial number of each radiation machine; and
 - 4) Name of the individual that installed the radiation machine.
- c) A radiation machine service provider who services a radiation machine in a radiation installation in the State of Illinois that is not registered under Section 24.7 of the Act must report the service to the Department. [420 ILCS 40/25.2(c)] The report shall be submitted in writing within 15 days after such service and contain the following information:
- 1) Date service was provided;
 - 2) Name, street address, and telephone number of the customer;
 - 3) The type of radiation machine, the manufacturer's name, model number and control panel serial number of each radiation machine; and
 - 4) Name of the individual that serviced the radiation machine.

Section 322.90 Penalties

Radiation machine service providers that fail to comply with the provisions of this Part are subject to monetary and other penalties as provided for in the Act.

DEPARTMENT OF PROFESSIONAL REGULATION

NOTICE OF PROPOSED AMENDMENTS

1) Heading of the Part: Medical Practice Act of 1987

2) Code Citation: 68 Ill. Adm. Code 1285

3) Section Numbers: Proposed Action:
1285.335 New Section
1285.340 New Section

4) Statutory Authority: Medical Practice Act of 1987 [225 ILCS 60]

5) A Complete Description of the Subjects and Issues Involved: Public Acts 90-742 and 91-414, providing for licensure of advanced practice nurses, also amended the Medical Practice Act of 1987 regarding the relationships between physicians and advanced practice nurses. Section 1285.335 has been added relating to physician delegation of authority with physician assistants and advanced practice nurses. Section 1285.340 is added, setting forth the training and experience requirements for operating physicians who deliver anesthesia services in an office setting or who enter into a written practice agreement with a certified registered nurse anesthetist (CRNA). All physicians administering anesthesia in an office setting shall obtain Advanced Cardiac Life Support (ACLS) certification by July 31, 2002. If a physician is entering into a written practice agreement with a CRNA, the CRNA must also have ACLS certification. Definitions of anesthesia have also been added in this Section.

6) Will these proposed amendments replace emergency amendments currently in effect? No

7) Do these rulemaking contain an automatic repeal date? No

8) Do these proposed amendments contain incorporations by reference? No

9) Are there any other proposed amendments pending on this Part?

<u>Section Numbers</u>	<u>Proposed Action</u>	<u>Illinois Register Citation</u>
1285.100	Amendment	25 Ill. Reg. 12058

10) Statement of Statewide Policy Objectives (if applicable): This rulemaking has no impact on local governments.

11) Time, Place and Manner in which interested persons may comment on this proposed rulemaking: Interested persons may submit written comments to:

Department of Professional Regulation
Jean A. Courtney
320 West Washington, 3rd Floor
Springfield, IL 62786
217/785-0813; Fax: 217/782-7645

DEPARTMENT OF PROFESSIONAL REGULATION

NOTICE OF PROPOSED AMENDMENTS

All written comments received within 45 days of this issue of the *Illinois Register* will be considered.

12) Initial Regulatory Flexibility Analysis:

A) Types of small businesses, small municipalities and not for profit corporations affected: Those businesses providing anesthesia services in an office setting.

B) Reporting, bookkeeping or other procedures required for compliance:
None

C) Types of professional skills necessary for compliance: Medical skills are required for licensure.

13) Regulatory Agenda on which this rulemaking was summarized: January 2001

The full text of the Proposed Amendments begins on the next page:

DEPARTMENT OF PROFESSIONAL REGULATION

NOTICE OF PROPOSED AMENDMENTS

TITLE 68: PROFESSIONS AND OCCUPATIONS
 CHAPTER VII: DEPARTMENT OF PROFESSIONAL REGULATION
 SUBCHAPTER b: PROFESSIONS AND OCCUPATIONS

PART 1285

MEDICAL PRACTICE ACT OF 1987

SUBPART A: MEDICAL LICENSING, RENEWAL
 AND RESTORATION PROCEDURE

Section	
1285.20	Six (6) Year Post-Secondary Programs of Medical Education
1285.30	Programs of Chiropractic Education
1285.40	Approved Postgraduate Training Programs
1285.50	Application for Examination
1285.60	Examinations
1285.70	Application for a License on the Basis of Examination
1285.80	Licensure by Endorsement
1285.90	Temporary Licenses
1285.91	Visiting Resident Permits
1285.95	Clinical Skills Standards for Applicants Having Graduated More Than Five (5) Years Prior to Application
1285.100	Visiting Professor Permits
1285.101	Visiting Physician Permits
1285.105	Chiropractic Physician Preceptorship
1285.110	Continuing Medical Education (CME)
1285.120	Renewals
1285.130	Restoration and Inactive Status
1285.140	Granting Variances

SUBPART B: MEDICAL DISCIPLINARY PROCEEDINGS

Section	
1285.200	Medical Disciplinary Board
1285.205	Complaint Committee
1285.210	The Medical Coordinator
1285.215	Complaint Handling Procedure
1285.220	Informal Conferences
1285.225	Consent Orders
1285.230	Summary Suspension
1285.235	Mandatory Reporting of Impaired Physicians by Health Care Institutions
1285.240	Standards
1285.245	Advertising
1285.250	Monitoring of Probation and Other Discipline and Notification
1285.255	Rehabilitation
1285.260	Fines
1285.265	Subpoena Process of Medical and Hospital Records

DEPARTMENT OF PROFESSIONAL REGULATION

NOTICE OF PROPOSED AMENDMENTS

1285.270 Inspection of Physical Premises
 1285.275 Failing to Furnish Information

SUBPART C: GENERAL INFORMATION

Section	
1285.310	Public Access to Records and Meetings
1285.320	Response to Hospital Inquiries
1285.330	Rules of Evidence
1285.335	Physician Delegation of Authority
1285.340	Anesthesia Services in an Office Setting

AUTHORITY: Implementing the Medical Practice Act of 1987 [225 ILCS 60] and authorized by Section 2105-15(7) of the Civil Administrative Code of Illinois [20 ILCS 2105/2105-15(7)].

SOURCE: Adopted at 13 Ill. Reg. 483, effective December 29, 1988; emergency amendment at 13 Ill. Reg. 651, effective January 1, 1989, for a maximum of 150 days; emergency expired May 31, 1989; amended at 13 Ill. Reg. 10613, effective June 16, 1989; amended at 13 Ill. Reg. 10925, effective June 21, 1989; emergency amendment at 15 Ill. Reg. 7785, effective April 30, 1991, for a maximum of 150 days; amended at 15 Ill. Reg. 13365, effective September 3, 1991; amended at 15 Ill. Reg. 17724, effective November 26, 1991; amended at 17 Ill. Reg. 17191, effective September 27, 1993; expedited correction at 18 Ill. Reg. 312, effective September 27, 1993; amended at 20 Ill. Reg. 7888, effective May 30, 1996; amended at 22 Ill. Reg. 6985, effective April 6, 1998; amended at 22 Ill. Reg. 10580, effective June 1, 1998; amended at 24 Ill. Reg. 3620, effective February 15, 2000; amended at 24 Ill. Reg. 8348, effective June 5, 2000; amended at 26 Ill. Reg. _____, effective _____.

SUBPART C: GENERAL INFORMATION

Section 1285.335 Physician Delegation of Authority

- a) Physicians licensed to practice medicine in all its branches may delegate care and treatment responsibilities to a physician assistant under guidelines in accordance with the requirements of the Physician Assistant Practice Act of 1987 [225 ILCS 95]. A physician licensed to practice medicine in all its branches may enter into supervising physician agreements with no more than 2 physician assistants.
- b) A physician licensed to practice medicine in all its branches in active clinical practice may collaborate with an advanced practice nurse in accordance with the requirements of Title 15 of the Nursing and Advanced Practice Nursing Act [225 ILCS 65]. Collaboration is for the purpose of providing medical direction, and no employment relationship is required. A written collaborative agreement shall conform to the requirements of Sections 15-15 and 15-20 of the Nursing and Advanced Practice Nursing Act. The written collaborative

DEPARTMENT OF PROFESSIONAL REGULATION

NOTICE OF PROPOSED AMENDMENTS

agreement shall be for services the collaborating physician generally provides to his or her patients in the normal course of clinical medical practice. Physician medical direction shall be adequate with respect to collaboration with certified nurse practitioners, certified nurse midwives, and clinical nurse specialists if a collaborating physician:

- 1) participates in the joint formulation and joint approval of orders or guidelines with the advanced practice nurse and periodically reviews such orders and the services provided patients under such orders in accordance with accepted standards of medical practice and advanced practice nursing practice;
 - 2) is on site at least once a month to provide medical direction and consultation; and
 - 3) is available through telecommunications for consultation on medical problems, complications, or emergencies or patient referral.
- c) An anesthesiologist or physician licensed to practice medicine in all its branches may collaborate with a certified registered nurse anesthetist in accordance with Section 15-25 of the Nursing and Advanced Practice Nursing Act. Medical direction for a certified registered nurse anesthetist shall be adequate if:
- 1) Can anesthesiologist or a physician participates in the joint formulation and joint approval of orders or guidelines and periodically reviews such orders and the services provided patients under such orders; and
 - 2) for anesthesia services, the anesthesiologist or physician participates through discussion of and agreement with the anesthesia plan and is physically present and available on the premises during the delivery of anesthesia services for diagnosis, consultation, and treatment of emergency medical conditions. Anesthesia services in a hospital shall be conducted in accordance with Section 10.7 of the Hospital Licensing Act [210 ILCS 85] and in an ambulatory surgical treatment center in accordance with Section 6.5 of the Ambulatory Surgical Treatment Center Act [210 ILCS 5].
- d) The anesthesiologist or operating physician must agree with the anesthesia plan prior to the delivery of services.
- e) The supervising physician shall have access to the medical records of all patients attended by a physician assistant. The collaborating physician shall have access to the medical records of all patients attended to by an advanced practice nurse.
- f) Nothing in this Section shall be construed to limit the delegation of tasks or duties by a physician licensed to practice medicine in all its branches to a licensed practical nurse, a registered professional nurse, or other personnel including but not limited to certified nurse assistants or medical assistants. (Section 54.5 of the Act)

(Source: Added at 26 Ill. Reg. _____, effective _____)

DEPARTMENT OF PROFESSIONAL REGULATION

NOTICE OF PROPOSED AMENDMENTS

Section 1285.340 Anesthesia Services in an Office Setting

- a) In a physician's office, the operating physician shall have training and experience in the delivery of anesthesia services in order to administer anesthesia or to enter into a practice agreement with a certified registered nurse anesthetist (CRNA) to provide anesthesia services in the office pursuant to Section 54.5 of the Medical Practice Act and Section 15-25 of the Nursing and the Advanced Practice Nursing Act [225 ILCS 65]. When an anesthesiologist is administering anesthesia in a physician's office, the operating physician is not required to have the training and experience set forth in subsection (b). A physician's office is any location not regulated by Section 10.7 of the Hospital Licensing Act [210 ILCS 85] or Section 6.5 of the Ambulatory Surgical Treatment Center Act [210 ILCS 5].
- b) The training and experience requirements may be met in the manner specified in either subsection (b)(1) or (2):
- 1) The physician maintains clinical privileges to administer anesthesia services in a hospital licensed in accordance with the Hospital Licensing Act or an ambulatory surgical treatment center licensed in accordance with the Ambulatory Surgical Treatment Center Act; or
 - 2) Completion of continuing medical education:
 - A) For conscious sedation only, the physician shall complete a minimum of 8 hours of continuing medical education (CME) within each 3 year license renewal period in delivery of anesthesia, including the administration of conscious sedation. The physician will be required to complete 4 of the 8 hours of CME for the July 2002 renewal period.
 - B) For deep sedation, regional anesthesia and/or general anesthesia, a physician shall complete a minimum of 34 hours of continuing medical education in the delivery of anesthesia services within each 3 year license renewal period. The physician will be required to complete 16 of the 34 hours of CME for the July 2002 renewal period. Fulfillment of this requirement shall satisfy the requirement of subsection (b)(2)(A).
 - C) A continuing medical education program shall be conducted by a university, professional association, or hospital as a formal CME program under 68 Ill. Adm. Code 1285.110(b)(2).
- c) In a physician's office where anesthesia services are being administered, all operating physicians and anesthesiologists shall obtain Advanced Cardiac Life Support (ACLS) certification by July 31, 2002, and shall thereafter maintain current ACLS certification. If the physician is entering into a practice agreement with the CRNA, the CRNA shall also have a current ACLS certification pursuant to 68 Ill.

DEPARTMENT OF PROFESSIONAL REGULATION

NOTICE OF PROPOSED AMENDMENTS

Adm. Code 1305.45.

d) The ACLS certification and the physician training and experience required by this Section shall be documented in the written practice agreement between the physician and CRNA.

e) Definitions of Anesthesia

1) Minimal Sedation (Anxiolysis) is a drug-induced state during which patients respond normally to verbal commands. Although cognitive function and coordination may be impaired, ventilator and cardiovascular functions are unaffected.

2) Moderate Sedation/Analgesia (Conscious Sedation) is a drug-induced depression of consciousness during which patients respond purposefully to verbal commands, either alone or accompanied by light tactile stimulation. No interventions are required to maintain a patent airway and spontaneous ventilation is adequate. Cardiovascular function is usually maintained.

3) Deep Sedation/Analgesia is a drug-induced depression of consciousness during which patients cannot be easily aroused but respond purposefully following repeated or painful stimulation. The ability to independently maintain ventilatory function may be impaired. Patients may require assistance in maintaining a patent airway and spontaneous ventilation may be inadequate. Cardiovascular function is usually maintained.

4) Regional Anesthesia is the administration of local anesthetic agents to a patient to interrupt nerve impulses in a major region of the body without loss of consciousness and include epidural, caudal, spinal and brachial anesthesia.

5) General Anesthesia is a drug-induced loss of consciousness during which patients are not arousable, even by painful stimulation. The ability to independently maintain ventilatory function is often impaired. Patients often require assistance in maintaining a patent airway, and positive pressure ventilation may be required because of depressed spontaneous ventilation or drug-induced depression of neuromuscular function. Cardiovascular function may be impaired.

(Source: Added at 26 Ill. Reg. _____, effective _____)

DEPARTMENT OF PROFESSIONAL REGULATION

NOTICE OF PROPOSED AMENDMENTS

1) Heading of the Part: Nursing and Advanced Practice Nursing Act - Advanced Practice Nurse

2) Code Citation: 68 Ill. Adm. Code 1305

3) Section Numbers: 1305.45 Proposed Action: Amendment

4) Statutory Authority: Nursing and Advanced Practice Nursing Act [225 ILCS 65]

5) A Complete Description of the Subjects and Issues Involved: Section 1305.45 is amended by adding a citation to 68 Ill. Adm. Code 1285.340 of the Medical Practice Act of 1987, which sets forth the training and experience requirements for physicians who enter into a written practice agreement with a certified registered nurse anesthetist (CRNA) and by deleting the specific training and experience requirements for physicians currently set forth. The date for compliance with the Advanced Cardiac Life Support (ACLS) certification has been changed from November 1, 2001 to July 31, 2002 for CRNAs and physicians entering into written practice agreements.

6) Do these proposed amendments replace an emergency amendment currently in effect? No

7) Does this rulemaking contain an automatic repeal date? No

8) Do these proposed amendments contain incorporations by reference? No

9) Are there any other proposed amendments pending on this Part? No

10) Statement of Statewide Policy Objectives (if applicable): This rulemaking has no effect on local governments.

11) Time, Place, and Manner in which interested persons may comment on this proposed rulemaking: Interested persons may submit written comments to:

Department of Professional Regulation
Attention: Jean A. Courtney
320 West Washington, 3rd Floor
Springfield, IL 62786
217/785-0813
Fax #: 217/782-7645

All written comments received within 45 days after this issue of the *Illinois Register* will be considered.

12) Initial Regulatory Flexibility Analysis:

DEPARTMENT OF PROFESSIONAL REGULATION

NOTICE OF PROPOSED AMENDMENTS

A) Types of small businesses, small municipalities and not for profit corporations affected: Those providing anesthesia services with CRNAs.

B) Reporting, bookkeeping or other procedures required for compliance:
None

C) Types of professional skills necessary for compliance: Advanced practice nursing skills are necessary for licensure.

13) Regulatory Agenda on which this rulemaking was summarized: January 2001

The full text of the Proposed Amendments begins on the next page:

DEPARTMENT OF PROFESSIONAL REGULATION

NOTICE OF PROPOSED AMENDMENTS

TITLE 68: PROFESSIONS AND OCCUPATIONS
CHAPTER VII: DEPARTMENT OF PROFESSIONAL REGULATION
SUBCHAPTER b: PROFESSIONS AND OCCUPATIONS

PART 1305

NURSING AND ADVANCED PRACTICE NURSING ACT -
ADVANCED PRACTICE NURSE

Section	Definitions
1305.10	Application for Licensure Prior to July 1, 2001
1305.15	Application for Licensure Beginning July 1, 2001
1305.20	Fees
1305.25	Written Collaborative Agreements
1305.30	Medical Direction
1305.35	Prescriptive Authority
1305.40	Delivery of Anesthesia Services by a Certified Registered Nurse Anesthetist
1305.45	Practice Agreement for Certified Registered Nurse Anesthetist
1305.50	Renewals
1305.60	Advertising
1305.70	Mandatory Reporting of Impaired Advanced Practice Nurses by Health Care Institutions
1305.75	Fines
1305.80	Public Access to Records and Meetings
1305.85	Refusal to Issue a Nurse License based on Criminal History Record
1305.90	Granting Variances
1305.95	

EXHIBIT A Sample Written Collaborative Agreement

EXHIBIT B Sample Practice Agreement for Office Based Anesthesia Services

AUTHORITY: Implementing the Nursing and Advanced Practice Nursing Act [225 ILCS 65] and authorized by Section 2105-15(7) of the Civil Administrative Code of Illinois [20 ILCS 2105/15-2105(7)].

SOURCE: Adopted at 25 Ill. Reg. 4609, effective March 15, 2001; amended at 26 Ill. Reg. _____, effective _____.

Section 1305.45 Delivery of Anesthesia Services by a Certified Registered Nurse Anesthetist

- a) A licensed certified registered nurse anesthetist may provide anesthesia services pursuant to the order of a licensed physician, a licensed dentist, or licensed podiatrist in a licensed hospital, a licensed ambulatory surgical treatment center, or the office of a licensed physician, the office of a licensed dentist, or the office of a licensed podiatrist. For anesthesia services, an anesthesiologist, physician, dentist, or podiatrist shall participate through discussion

DEPARTMENT OF PROFESSIONAL REGULATION

NOTICE OF PROPOSED AMENDMENTS

(Source: Amended at 26 Ill. Reg. _____, effective _____)

DEPARTMENT OF PUBLIC AID
NOTICE OF PROPOSED AMENDMENTS

1) Heading of the Part: Hospital Reimbursement Changes

2) Code Citation: 89 Ill. Adm. Code 152

3) Section Numbers: Proposed Action:
152.150 Amendment
152.200 Amendment

4) Statutory Authority: Section 12-13 of the Illinois Public Aid Code [305 ILCS 5/12-13]

5) Complete Description of the Subjects and Issues Involved: These proposed amendments to the Department's rules concerning hospital reimbursement are intended to implement certain budgetary constraints related to appropriation limitations. The changes will allow the continuation of essential medical services while holding spending levels to corresponding appropriation amounts.

For hospitals reimbursed under the Diagnosis Related Grouping (DRG) Prospective Payment System (PPS), the proposed changes will impose additional cost factors to the reimbursement methodology for determining payments for outlier cases. For hospitals reimbursed under non-DRG payment methodologies, the proposed changes will modify a factor employed in calculating outlier adjustments for exceptionally costly hospital stays.

These proposed changes, which will effectively maintain current year payment levels at prior year levels, are expected to reduce the current year liability by approximately \$26 million.

6) Will these proposed amendments replace emergency amendments currently in effect? No

7) Do these rulemaking contain an automatic repeal date? No

8) Do these proposed amendments contain incorporations by reference? No

9) Are there any other proposed amendments pending on this Part? No

10) Statement of Statewide Policy Objectives: These proposed amendments do not affect units of local government.

11) Time, Place, and Manner in Which Interested Persons May Comment on this Proposed Rulemaking: Any interested parties may submit comments, data, views, or arguments concerning this proposed rulemaking. All comments must be in writing and should be addressed to:

DEPARTMENT OF PUBLIC AID
NOTICE OF PROPOSED AMENDMENTS

The full text of the Proposed Amendments begins on the next page:

Joanne Jones
Office of the General Counsel, Rules Section
Illinois Department of Public Aid
201 South Grand Avenue East, Third Floor
Springfield, Illinois 62763-0002
(217)524-0081

The Department requests the submission of written comments within 30 days after the publication of this notice. The Department will consider all written comments it receives during the first notice period as required by Section 5-40 of the Illinois Administrative Procedure Act [5 ILCS 100/5-40].

Any interested persons may review these proposed amendments at the Illinois Department of Human Services' local offices located in each county (except Cook County). In Cook County, the amendments may be reviewed at the Office of the Director, Illinois Department of Public Aid, 100 West Randolph, Tenth Floor, Chicago, Illinois, and the Office of the Secretary, Illinois Department of Human Services, 401 South Clinton, Seventh Floor, Chicago, Illinois. The amendments may be reviewed at all offices Monday through Friday from 8:30 a.m. until 5:00 p.m. This notice is being provided in accordance with requirements at 42 CFR 447.205.

These proposed amendments may have an impact on small businesses, small municipalities, and not-for-profit corporations as defined in Sections 1-75, 1-80 and 1-85 of the Illinois Administrative Procedure Act [5 ILCS 100/1-75, 1-80, 1-85] 5D. These entities may submit comments in writing to the Department at the above address in accordance with the regulatory flexibility provisions in Section 5-30 of the Illinois Administrative Procedure Act [5 ILCS 100/5-30]. These entities shall indicate their status as small businesses, small municipalities, or not-for-profit corporations as part of any written comments they submit to the Department.

12) Initial Regulatory Flexibility Analysis:

- A) Types of small businesses, small municipalities and not-for-profit corporations affected: None
- B) Reporting, bookkeeping or other procedures required for compliance: None
- C) Types of professional skills necessary for compliance: None

13) Regulatory Agenda on Which this Rulemaking Was Summarized: This rulemaking was not included on either of the two most recent regulatory agendas because: It was not anticipated by the Department when the most recent regulatory agendas were published.

DEPARTMENT OF PUBLIC AID

NOTICE OF PROPOSED AMENDMENTS

TITLE 89: SOCIAL SERVICES

CHAPTER I: DEPARTMENT OF PUBLIC AID

SUBCHAPTER e: GENERAL TIME-LIMITED CHANGES

PART 152

HOSPITAL REIMBURSEMENT CHANGES

Section

- 152.100 Reimbursement Add-on Adjustments (Repealed)
 152.150 Diagnosis Related Grouping (DRG) Prospective Payment System (PPS)
 152.200 Non-DRG Reimbursement Methodologies
 152.250 Appeals (Repealed)

AUTHORITY: Implementing and authorized by Articles III, IV, V and VI and Section 12-13 of the Illinois Public Aid Code [305 ILCS 5/Arts. III, IV, V and VI and 12-13] and implementing Article III of the Illinois Health Finance Reform Act [20 ILCS 2215/Art. III].

SOURCE: Emergency rules adopted at 18 Ill. Reg. 2150, effective January 18, 1994, for maximum of 150 days; adopted at 18 Ill. Reg. 10141, effective June 17, 1994; emergency amendment at 19 Ill. Reg. 6706, effective May 12, 1995, for a maximum of 150 days; emergency amendment at 19 Ill. Reg. 10236, effective June 30, 1995, for a maximum of 150 days; amended at 19 Ill. Reg. 16272, effective November 27, 1995; emergency amendment at 20 Ill. Reg. 9272, effective July 1, 1996, for a maximum of 150 days; amended at 20 Ill. Reg. 15712, effective November 27, 1996; emergency amendment at 21 Ill. Reg. 9544, effective July 1, 1997, for a maximum of 150 days; amended at 21 Ill. Reg. 16153, effective November 26, 1997; emergency amendment at 25 Ill. Reg. 218, effective January 1, 2001, for a maximum of 150 days; emergency expired on May 30, 2001; amended at 25 Ill. Reg. 6966, effective June 1, 2001; amended at 26 Ill. Reg. _____, effective _____.

Section 152.150 Diagnosis Related Grouping (DRG) Prospective Payment System (PPS)

- Notwithstanding any provisions set forth in 89 Ill. Adm. Code 149, the changes described in subsections (b) and (c) of this Section will be effective January 18, 1994.
- For the rate periods, as described in 89 Ill. Adm. Code 148.25(g)(2)(B), the DRG weighting factors shall be adjusted by a factor, the numerator of which is the statewide weighted average DRG base payment rate in effect for the base period, as described in 89 Ill. Adm. Code 148.25(g)(2)(A), and the denominator of which is the statewide weighted average DRG base payment rate for the rate period, as described in 89 Ill. Adm. Code 148.25(g)(2)(B). For this adjustment, DRG base payment rate means the product of the PPS base rate, as described in 89 Ill. Adm. Code 149.100(c)(3), and the indirect medical education factor, as described in 89 Ill. Adm. Code

DEPARTMENT OF PUBLIC AID

NOTICE OF PROPOSED AMENDMENTS

149.150(c)(3).

- All payments calculated under 89 Ill. Adm. Code 149.140 and 149.150(c)(1), (c)(2) and (c)(4), in effect on January 18, 1994, shall remain in effect hereafter.
- For hospital inpatient services rendered on or after July 1, 1995, the Department shall reimburse hospitals using the relative weighting factors and the base payment rates calculated pursuant to the methodology described in this Section, that were in effect on June 30, 1995, less the portion of such rates attributed by the Department to the cost of medical education.
- Notwithstanding the provisions set forth in 89 Ill. Adm. Code 149 (DRG PPS), the changes described in this subsection (e) shall be effective January 1, 2001. Payments for hospital inpatient and outpatient services shall not exceed charges to the Department. This payment limitation shall not apply to government owned or operated hospitals or children's hospitals as defined at 89 Ill. Adm. Code 149.50(c)(3). This payment limitation shall not apply to or affect disproportionate share payments as described at 89 Ill. Adm. Code 148.120, payments for outlier costs as described at 89 Ill. Adm. Code 149.105 or payments for Medicaid High Volume Adjustments as described at 89 Ill. Adm. Code 148.290(d).

f) Notwithstanding the provisions of 89 Ill. Adm. Code 149, for admissions on or after November 26, 2001, payment for outlier cases pursuant to 89 Ill. Adm. Code 149.105 shall be determined by using the following factors that were in effect on June 30, 1995:

- The marginal cost factor (see 89 Ill. Adm. Code 149.5(c)(4)).
- The Metropolitan Statistical Area (MSA) wage index (see 89 Ill. Adm. Code 148.120(b)).
- The Indirect Medical Education (IME) factor (see 89 Ill. Adm. Code 148.260(a)(i)(B)(iv)).
- The cost to charge ratio (see 89 Ill. Adm. Code 149.105(c)(3)) and
- The cost outlier threshold (see 89 Ill. Adm. Code 149.5(c)(5)) multiplied by 1.39.

(Source: Amended at 26 Ill. Reg. _____, effective _____)

Section 152.200 Non-DRG Reimbursement Methodologies

- Notwithstanding any provisions set forth in 89 Ill. Adm. Code 148, the changes described in subsection (b) of this Section will be effective January 18, 1994.
- All per diem payments calculated under 89 Ill. Adm. Code 148, except for those described in 89 Ill. Adm. Code 148.120, 148.160, 148.170, 148.175 and 148.290(a), (c) and (d), in effect on January 18, 1994 less the portion of such rates attributed by the Department to the cost of medical education, shall remain in effect hereafter.

DEPARTMENT OF PUBLIC AID

NOTICE OF PROPOSED AMENDMENTS

- c) Notwithstanding the provisions set forth in 89 Ill. Adm. Code 148, Hospital Services, and 89 Ill. Adm. Code 146, Subpart A, Ambulatory Surgical Treatment Centers, the changes described in this subsection (c) shall be effective January 1, 2001. Payments for hospital inpatient and outpatient services and ambulatory surgical treatment services shall not exceed charges to the Department. This payment limitation shall not apply to government owned or operated hospitals or children's hospitals as defined at 89 Ill. Adm. Code 149.50(c)(3). This payment limitation shall not apply to or affect disproportionate share payments as described at 89 Ill. Adm. Code 148.120, payments for outlier costs as described at 89 Ill. Adm. Code 148.130 or payments for Medicaid High Volume Adjustments as described at 89 Ill. Adm. Code 148.290(d).

- d) Notwithstanding the provisions of subsections (a), (b) and (c) of this Section, for admissions on or after November 26, 2001, payment for outlier adjustments provided for exceptionally costly stays pursuant to 89 Ill. Adm. Code 148.130 shall be determined using the factor 0.20 in place of the factor 0.25 described at 89 Ill. Adm. Code 148.130(b)(3)(D).

(Source: Amended at 26 Ill. Reg. _____, effective _____)

DEPARTMENT OF PUBLIC AID

NOTICE OF PROPOSED AMENDMENTS

- 1) Heading of the Part: Medical Payment
- 2) Code Citation: 89 Ill. Adm. Code 140
- 3) Section Numbers: Proposed Action:
140.523 Amendment

- 4) Statutory Authority: Section 12-13 of the Illinois Public Aid Code [305 ILCS 5/12-13]

- 5) Complete Description of the Subjects and Issues Involved: These proposed amendments to the Department's rules concerning nursing facilities will implement certain budgetary constraints related to appropriation limitations. The changes will allow the continuation of essential long term care services while holding spending levels to corresponding appropriation amounts.

Under these proposed changes, payment for bed reserves will be allowable for five days per hospital stay and five consecutive or non-consecutive days in a billing month for home visits. Bed reserve payments will also be allowable for five days per month for therapeutic home visits for a period not exceeding six months. Additionally, bed reserve payments will equal a daily rate at 33 percent of a resident's current Medicaid per diem.

These proposed changes are expected to reduce the annual nursing facility liability by approximately \$4.5 million.

- 6) Will these proposed amendments replace emergency amendments currently in effect? No

- 7) Does this rulemaking contain an automatic repeal date? No

- 8) Do these proposed amendments contain incorporations by reference? No

- 9) Are there any other proposed amendments pending on this Part? Yes

Sections	Proposed Action	Illinois Register Citation
140.11	Amendment	July 6, 2001 (25 Ill. Reg. 8098)
140.445	Amendment	June 29, 2001 (25 Ill. Reg. 7808)
140.447	Amendment	June 29, 2001 (25 Ill. Reg. 7808)
140.490	Amendment	October 5, 2001 (25 Ill. Reg. 12536)
140.491	Amendment	October 5, 2001 (25 Ill. Reg. 12536)
140.492	Amendment	October 5, 2001 (25 Ill. Reg. 12536)
140.493	Amendment	October 5, 2001 (25 Ill. Reg. 12536)
140.494	New Section	October 5, 2001 (25 Ill. Reg. 12536)
140.513	Amendment	August 24, 2001 (25 Ill. Reg. 10672)

DEPARTMENT OF PUBLIC AID

NOTICE OF PROPOSED AMENDMENTS

- 10) Statement of Statewide Policy Objectives: These proposed amendments do not affect units of local government.

- 11) Time, Place, and Manner in Which Interested Persons May Comment on this Proposed Rulemaking: Any interested parties may submit comments, data, views, or arguments concerning this proposed rulemaking. All comments must be in writing and should be addressed to:

Joanne Jones
Office of the General Counsel, Rules Section
Illinois Department of Public Aid
201 South Grand Avenue East, Third Floor
Springfield, Illinois 62763-0002
(217)524-0081

The Department requests the submission of written comments within 30 days after the publication of this notice. The Department will consider all written comments it receives during the first notice period as required by Section 5-40 of the Illinois Administrative Procedure Act [5 ILCS 100/5-40].

Any interested persons may review these proposed amendments at the Illinois Department of Human Services' local offices located in each county (except Cook County). In Cook County, the amendments may be reviewed at the Office of the Director, Illinois Department of Public Aid, 100 West Randolph, Tenth Floor, Chicago, Illinois, and the Office of the Secretary, Illinois Department of Human Services, 401 South Clinton, Seventh Floor, Chicago, Illinois. The amendments may be reviewed at all offices Monday through Friday from 8:30 a.m. until 5:00 p.m. This notice is being provided in accordance with federal requirements at 42 CFR 447.205.

These proposed amendments may have an impact on small businesses, small municipalities, and not-for-profit corporations as defined in Sections 1-75, 1-80 and 1-85 of the Illinois Administrative Procedure Act [5 ILCS 100/1-75, 1-80, 1-85]. These entities may submit comments in writing to the Department at the above address in accordance with the regulatory flexibility provisions in Section 5-30 of the Illinois Administrative Procedure Act [5 ILCS 100/5-30]. These entities shall indicate their status as small businesses, small municipalities, or not-for-profit corporations as part of any written comments they submit to the Department.

- 12) Initial Regulatory Flexibility Analysis:

- A) Types of small businesses, small municipalities and not-for-profit corporations affected: These proposed amendments will affect Medicaid funded nursing facilities. The Department is unsure whether or not

DEPARTMENT OF PUBLIC AID

NOTICE OF PROPOSED AMENDMENTS

any of the affected entities may qualify as small businesses.

- B) Reporting, bookkeeping or other procedures required for compliance: None

- C) Types of professional skills necessary for compliance: None

- 13) Regulatory Agenda on Which this Rulemaking Was Summarized: This rulemaking was not included on either of the two most recent regulatory agendas because: This rulemaking was not anticipated by the Department when the most recent regulatory agendas were published.

The full text of the Proposed Amendments begins on the next page:

DEPARTMENT OF PUBLIC AID

NOTICE OF PROPOSED AMENDMENTS

TITLE 89: SOCIAL SERVICES
CHAPTER I: DEPARTMENT OF PUBLIC AID
SUBCHAPTER d: MEDICAL PROGRAMS

PART 140
MEDICAL PAYMENT

SUBPART A: GENERAL PROVISIONS

Section	
140.1	Incorporation By Reference
140.2	Medical Assistance Programs
140.3	Covered Services Under Medical Assistance Programs
140.4	Covered Medical Services Under AFDC-MANG for non-pregnant persons who are 18 years of age or older (Repealed)
140.5	Covered Medical Services Under General Assistance
140.6	Medical Services Not Covered
140.7	Medical Assistance Provided to Individuals Under the Age of Eighteen Who Do Not Qualify for AFDC and Children Under Age Eight
140.8	Medical Assistance For Qualified Severely Impaired Individuals
140.9	Medical Assistance for a Pregnant Woman Who Would Not Be Categorically Eligible for AFDC/AFDC-MANG if the Child Were Already Born Or Who Do Not Qualify As Mandatory Categorically Needy
140.10	Medical Assistance Provided to Incarcerated Persons

SUBPART B: MEDICAL PROVIDER PARTICIPATION

Section	
140.11	Enrollment Conditions for Medical Providers
140.12	Participation Requirements for Medical Providers
140.13	Definitions
140.14	Denial of Application to Participate in the Medical Assistance Program
140.15	Recovery of Money
140.16	Termination or Suspension of a Vendor's Eligibility to Participate in the Medical Assistance Program
140.17	Suspension of a Vendor's Eligibility to Participate in the Medical Assistance Program
140.18	Effect of Termination on Individuals Associated with Vendor
140.19	Application to Participate or for Reinstatement Subsequent to Termination, Suspension or Barring
140.20	Submission of Claims
140.21	Covered Medicaid Services for Qualified Medicare Beneficiaries (QMBs)
140.22	Magnetic Tape Billings (Repealed)
140.23	Payment of Claims
140.24	Payment procedures
140.25	Overpayment or Underpayment of Claims
140.26	Payment to Factors Prohibited

DEPARTMENT OF PUBLIC AID

NOTICE OF PROPOSED AMENDMENTS

140.27	Assignment of Vendor Payments
140.28	Record Requirements for Medical Providers
140.30	Audits
140.31	Emergency Services Audits
140.32	Prohibition on Participation, and Special Permission for Participation
140.33	Publication of List of Terminated, Suspended or Barred Entities
140.35	False Reporting and Other Fraudulent Activities
140.40	Prior Approval for Medical Services or Items
140.41	Prior Approval in Cases of Emergency
140.42	Limitation on Prior Approval
140.43	Post Approval for Items or Services When Prior Approval Cannot Be Obtained
140.55	Recipient Eligibility Verification (REV) System
140.71	Reimbursement for Medical Services Through the Use of a C-13 Invoice
	Voucher Advance Payment and Expedited Payments
140.72	Drug Manual (Recodified)
140.73	Drug Manual Updates (Recodified)

SUBPART C: PROVIDER ASSESSMENTS

Section	
140.80	Hospital Provider Fund
140.82	Developmentally Disabled Care Provider Fund
140.84	Long Term Care Provider Fund
140.94	Medicaid Developmentally Disabled Provider Participation Fee Trust Fund/Medicaid Long Term Care Provider Participation Fee Trust Fund
140.95	Hospital Services Trust Fund
140.96	General Requirements (Recodified)
140.97	Special Requirements (Recodified)
140.98	Covered Hospital Services (Recodified)
140.99	Hospital Services Not Covered (Recodified)
140.100	Limitation On Hospital Services (Recodified)
140.101	Transplants (Recodified)
140.102	Heart Transplants (Recodified)
140.103	Liver Transplants (Recodified)
140.104	Bone Marrow Transplants (Recodified)
140.110	Disproportionate Share Hospital Adjustments (Recodified)
140.116	Payment for Inpatient Services for GA (Recodified)
140.117	Hospital Outpatient and Clinic Services (Recodified)
140.200	Payment for Hospital Services During Fiscal Year 1982 (Recodified)
140.201	Payment for Hospital Services After June 30, 1982 (Repealed)
140.202	Payment for Hospital Services During Fiscal Year 1983 (Recodified)
140.203	Limits on Length of Stay by Diagnosis (Recodified)
140.300	Payment for Pre-operative Days and Services Which Can Be Performed in an Outpatient Setting (Recodified)
140.350	Copayments (Recodified)
140.360	Payment Methodology (Recodified)

DEPARTMENT OF PUBLIC AID

NOTICE OF PROPOSED AMENDMENTS

140.361 Non-Participating Hospitals (Recodified)
 140.362 Pre July 1, 1989 Services (Recodified)
 140.363 Post June 30, 1989 Services (Recodified)
 140.364 Prepayment Review (Recodified)
 140.365 Base Year Costs (Recodified)
 140.366 Restructuring Adjustment (Recodified)
 140.367 Inflation Adjustment (Recodified)
 140.368 Volume Adjustment (Repealed)
 140.369 Groupings (Recodified)
 140.370 Rate Calculation (Recodified)
 140.371 Payment (Recodified)
 140.372 Review Procedure (Recodified)
 140.373 Utilization (Repealed)
 140.374 Alternatives (Recodified)
 140.375 Exemptions (Recodified)
 140.376 Utilization, Case-Mix and Discretionary Funds (Repealed)
 140.390 Subacute Alcoholism and Substance Abuse Services (Recodified)
 140.391 Definitions (Recodified)
 140.392 Types of Subacute Alcoholism and Substance Abuse Services (Recodified)
 140.394 Payment for Subacute Alcoholism and Substance Abuse Services (Recodified)
 140.396 Rate Appeals for Subacute Alcoholism and Substance Abuse Services (Recodified)
 140.398 Hearings (Recodified)

SUBPART D: PAYMENT FOR NON-INSTITUTIONAL SERVICES

Section
 140.400 Payment to Practitioners, Nurses and Laboratories
 140.410 Physicians' Services
 140.411 Covered Services By Physicians
 140.412 Services Not Covered By Physicians
 140.413 Limitation on Physician Services
 140.414 Requirements for Prescriptions and Dispensing of Pharmacy Items - Physicians
 140.416 Optometric Services and Materials
 140.417 Limitations on Optometric Services
 140.418 Department of Corrections Laboratory
 140.420 Dental Services
 140.421 Limitations on Dental Services
 140.422 Requirements for Prescriptions and Dispensing Items of Pharmacy Items - Dentists
 140.425 Podiatry Services
 140.426 Limitations on Podiatry Services
 140.427 Requirement for Prescriptions and Dispensing of Pharmacy Items - Podiatry
 140.428 Chiropractic Services

DEPARTMENT OF PUBLIC AID

NOTICE OF PROPOSED AMENDMENTS

140.429 Limitations on Chiropractic Services (Repealed)
 140.430 Independent Clinical Laboratory Services
 140.431 Services Not Covered by Independent Clinical Laboratories
 140.432 Limitations on Independent Clinical Laboratory Services
 140.433 Payment for Clinical Laboratory Services
 140.434 Record Requirements for Independent Clinical Laboratories
 140.435 Nurse Services
 140.436 Limitations on Nurse Services
 140.438 Imaging Centers
 140.440 Pharmacy Services
 140.441 Pharmacy Services Not Covered
 140.442 Prior Approval of Prescriptions
 140.443 Filling of Prescriptions
 140.444 Compounded Prescriptions
 140.445 Legend Prescription Items (Not Compounded)
 140.446 Over-the-Counter Items
 140.447 Reimbursement
 140.448 Returned Pharmacy Items
 140.449 Payment of Pharmacy Items
 140.450 Record Requirements for Pharmacies
 140.451 Prospective Drug Review and Patient Counseling
 140.452 Mental Health Clinic Services
 140.453 Definitions
 140.454 Types of Mental Health Clinic Services
 140.455 Payment for Mental Health Clinic Services
 140.456 Hearings
 140.457 Therapy Services
 140.458 Prior Approval for Therapy Services
 140.459 Payment for Therapy Services
 140.460 Clinic Services
 140.461 Clinic Participation, Data and Certification Requirements
 140.462 Covered Services in Clinics
 140.463 Clinic Service Payment
 140.464 Healthy Moms/Healthy Kids Managed Care Clinics (Repealed)
 140.465 Speech and Hearing Clinics (Repealed)
 140.466 Rural Health Clinics
 140.467 Independent Clinics
 140.469 Hospice
 140.470 Home Health Services
 140.471 Home Health Covered Services
 140.472 Types of Home Health Services
 140.473 Prior Approval for Home Health Services
 140.474 Payment for Home Health Services
 140.475 Medical Equipment, Supplies, Prosthetic Devices and Orthotic Devices
 140.476 Medical Equipment, Supplies, Prosthetic Devices and Orthotic Devices for Which Payment Will Not Be Made
 140.477 Limitations on Equipment, Prosthetic Devices and Orthotic Devices
 140.478 Prior Approval for Medical Equipment, Supplies, Prosthetic Devices

DEPARTMENT OF PUBLIC AID

NOTICE OF PROPOSED AMENDMENTS

140.479

and Orthotic Devices

140.480

Limitations, Medical Supplies

140.481

Equipment Rental Limitations

140.482

Payment for Medical Equipment, Supplies, Prosthetic Devices and Hearing Aids

140.483

Family Planning Services

140.484

Limitations on Family Planning Services

140.485

Payment for Family Planning Services

140.486

Healthy Kids Program

140.487

Limitations on Medichex Services (Repealed)

140.488

Healthy Kids Program Timeliness Standards

140.490

Periodicity Schedule, Immunizations and Diagnostic Laboratory Procedures

140.491

Medical Transportation

140.492

Limitations on Medical Transportation

140.493

Payment for Medical Transportation

140.494

Payment for Helicopter Transportation

140.495

Psychological Services

140.496

Payment for Psychological Services

140.497

Hearing Aids

SUBPART E: GROUP CARE

Section

140.500

Long Term Care Services

140.501

Cessation of Payment at Federal Direction

140.502

Cessation of Payment for Improper Level of Care

140.503

Cessation of Payment Because of Termination of Facility

140.504

Informal Hearing Process for Denial of Payment for New ICF/MR Admissions

140.505

Provider Voluntary Withdrawal

140.506

Continuation of Provider Agreement

140.507

Determination of Need for Group Care

140.510

Long Term Care Services Covered by Department Payment Utilization Control

140.511

Utilization Review Plan (Repealed)

140.512

Certifications and Recertifications of Care

140.513

Management of Recipient Funds--Personal Allowance Funds

140.514

Recipient Management of Funds

140.515

Correspondent Management of Funds

140.516

Facility Management of Funds

140.517

Use or Accumulation of Funds

140.518

Management of Recipient Funds--Local Office Responsibility

140.519

Room and Board Accounts

140.520

Reconciliation of Recipient Funds

140.521

Bed Reserves

140.522

Cessation of Payment Due to Loss of License

140.523

Quality Incentive Program (QUIP) Payment Levels

140.524

140.525

DEPARTMENT OF PUBLIC AID

NOTICE OF PROPOSED AMENDMENTS

140.526

Quality Incentive Standards and Criteria for the Quality Incentive Program (QUIP) (Repealed)

140.527

Quality Incentive Survey (Repealed)

140.528

Payment of Quality Incentive (Repealed)

140.529

Reviews (Repealed)

140.530

Basis of Payment for Long Term Care Services

140.531

General Service Costs

140.532

Health Care Costs

140.533

General Administration Costs

140.534

Ownership Costs

140.535

Costs for Interest, Taxes and Rent

140.536

Organization and Pre-Operating Costs

140.537

Payments to Related Organizations

140.538

Special Costs

140.539

Reimbursement for Basic Nursing Assistant, Developmental Disabilities Aide, Basic Child Care Aide and Habilitation Aide Training and Nursing Assistant Competency Evaluation

140.540

Costs Associated With Nursing Home Care Reform Act and Implementing Regulations

140.541

Salaries Paid to Owners or Related Parties

140.542

Cost Reports--Filing Requirements

140.543

Time Standards for Filing Cost Reports

140.544

Access to Cost Reports (Repealed)

140.545

Penalty for Failure to File Cost Reports

140.550

Update of Operating Costs

140.551

General Service Costs

140.552

Nursing and Program Costs

140.553

General Administrative Costs

140.554

Component Inflation Index

140.555

Minimum Wage

140.560

Components of the Base Rate Determination

140.561

Support Costs Components

140.562

Nursing Costs

140.563

Capital Costs

140.565

Kosher Kitchen Reimbursement

140.566

Out-of-State Placement

140.567

Level II Incentive Payments (Repealed)

140.568

Duration of Incentive Payments (Repealed)

140.569

Clients With Exceptional Care Needs

140.570

Capital Rate Component Determination

140.571

Capital Rate Calculation

140.572

Total Capital Rate

140.573

Other Capital Provisions

140.574

Capital Rates for Rented Facilities

140.575

Newly Constructed Facilities (Repealed)

140.576

Renovations (Repealed)

140.577

Capital Costs for Rented Facilities (Renumbered)

140.578

Property Taxes

DEPARTMENT OF PUBLIC AID

NOTICE OF PROPOSED AMENDMENTS

140.579	Specialized Living Centers
140.580	Mandated Capital Improvements (Repealed)
140.581	Qualifying as Mandated Capital Improvement (Repealed)
140.582	Cost Adjustments
140.583	Campus Facilities
140.584	Illinois Municipal Retirement Fund (IMRF)
140.590	Audit and Record Requirements
140.642	Screening Assessment for Nursing Facility and Alternative Residential Settings and Services
140.643	In-Home Care Program
140.645	Home and Community Based Services Waivers for Medically Fragile, Technology Dependent, Disabled Persons Under Age 21
140.646	Reimbursement for Developmental Training (DT) Services for Individuals With Developmental Disabilities Who Reside in Long Term Care (ICF AND SNF) and Residential (ICF/MR) Facilities
140.647	Description of Developmental Training (DT) Services
140.648	Determination of the Amount of Reimbursement for Developmental Training (DT) Programs
140.649	Effective Dates of Reimbursement for Developmental Training (DT) Programs
140.650	Certification of Developmental Training (DT) Programs
140.651	Decertification of Day Programs
140.652	Terms of Assurances and Contracts
140.680	Effective Date Of Payment Rate
140.700	Discharge of Long Term Care Residents
140.830	Appeals of Rate Determinations
140.835	Determination of Cap on Payments for Long Term Care (Repealed)

SUBPART F: FEDERAL CLAIMING FOR STATE AND LOCAL GOVERNMENTAL ENTITIES

Section	
140.850	Reimbursement of Administrative Expenditures
140.855	Administrative Claim Review and Reconsideration Procedure
140.860	Covered Services (Repealed)
140.865	Sponsor Qualifications (Repealed)
140.870	Sponsor Responsibilities (Repealed)
140.875	Department Responsibilities (Repealed)
140.880	Provider Qualifications (Repealed)
140.885	Provider Responsibilities (Repealed)
140.890	Payment Methodology (Repealed)
140.895	Contract Monitoring (Repealed)
140.896	Reimbursement For Program Costs (Active Treatment) For Clients In Long Term Care Facilities For the Developmentally Disabled (Recodified)
140.900	Reimbursement For Nursing Costs For Geriatric Residents in Group Care Facilities (Recodified)
140.901	Functional Areas of Needs (Recodified)
140.902	Service Needs (Recodified)

DEPARTMENT OF PUBLIC AID

NOTICE OF PROPOSED AMENDMENTS

140.903	Definitions (Recodified)
140.904	Times and Staff Levels (Repealed)
140.905	Statewide Rates (Repealed)
140.906	Reconsiderations (Recodified)
140.907	Midnight Census Report (Recodified)
140.908	Times and Staff Levels (Recodified)
140.909	Statewide Rates (Recodified)
140.910	Referrals (Recodified)
140.911	Basic Rehabilitation Aide Training Program (Recodified)
140.912	Interim Nursing Rates (Recodified)
SUBPART G: MATERNAL AND CHILD HEALTH PROGRAM	
General Description	
140.920	Covered Services
140.922	Maternal and Child Health Provider Participation Requirements
140.924	Client Eligibility (Repealed)
140.926	Client Enrollment and Program Components (Repealed)
140.928	Reimbursement
140.930	Payment Authorization for Referrals (Repealed)
140.932	

SUBPART H: ILLINOIS COMPETITIVE ACCESS AND REIMBURSEMENT EQUITY (ICARE) PROGRAM

Section	
140.940	Illinois Competitive Access and Reimbursement Equity (ICARE) Program (Recodified)
140.942	Definition of Terms (Recodified)
140.944	Notification of Negotiations (Recodified)
140.946	Hospital Participation in ICARE Program Negotiations (Recodified)
140.948	Negotiation Procedures (Recodified)
140.950	Factors Considered in Awarding ICARE Contracts (Recodified)
140.952	Closing an ICARE Area (Recodified)
140.954	Administrative Review (Recodified)
140.956	Payments to Contracting Hospitals (Recodified)
140.958	Admitting and Clinical Privileges (Recodified)
140.960	Inpatient Hospital Care or Services by Non-Contracting Hospitals Eligible for Payment (Recodified)
140.962	Payment to Hospitals for Inpatient Services or Care not Provided under the ICARE Program (Recodified)
140.964	Contract Monitoring (Recodified)
140.966	Transfer of Recipients (Recodified)
140.968	Validity of Contracts (Recodified)
140.970	Termination of ICARE Contracts (Recodified)
140.972	Hospital Services Procurement Advisory Board (Recodified)
140.980	Elimination Of Aid To The Medically Indigent (AMI) Program (Emergency Expired)

DEPARTMENT OF PUBLIC AID

NOTICE OF PROPOSED AMENDMENTS

140.982 Elimination Of Hospital Services For Persons Age Eighteen (18) And Older And Persons Married And Living With Spouse, Regardless Of Age (Emergency Expired)

TABLE A Medichuk Recommended Screening Procedures (Repealed)

TABLE B Geographic Areas

TABLE C Capital Cost Areas

TABLE D Schedule of Dental Procedures

TABLE E Time Limits for Processing of Prior Approval Requests

TABLE F Podiatry Service Schedule

TABLE G Travel Distance Standards

TABLE H Areas of Major Life Activity

TABLE I Staff Time and Allocation for Training Programs (Recodified)

TABLE J HSA Grouping (Repealed)

TABLE K Services Qualifying for 10% Add-On (Repealed)

TABLE L Services Qualifying for 10% Add-On to Surgical Incentive Add-On (Repealed)

TABLE M Enhanced Rates for Maternal and Child Health Provider Services

AUTHORITY: Implementing and authorized by Articles III, IV, V, VI and Section 12-13 of the Illinois Public Aid Code [305 ILCS 5/Arts. III, IV, V, VI and 12-13].

SOURCE: Adopted at 3 Ill. Reg. 24, p. 166, effective June 10, 1979; rule repealed and new rule adopted at 6 Ill. Reg. 8374, effective July 6, 1982; emergency amendment at 6 Ill. Reg. 8508, effective July 6, 1982, for a maximum of 150 days; amended at 7 Ill. Reg. 681, effective December 30, 1982; amended at 7 Ill. Reg. 7956, effective July 1, 1983; amended at 7 Ill. Reg. 8308, effective July 1, 1983; amended at 7 Ill. Reg. 8271, effective July 5, 1983; emergency amendment at 7 Ill. Reg. 8354, effective July 5, 1983, for a maximum of 150 days; amended at 7 Ill. Reg. 8540, effective July 15, 1983; amended at 7 Ill. Reg. 9382, effective July 22, 1983; amended at 7 Ill. Reg. 12868, effective September 20, 1983; peremptory amendment at 7 Ill. Reg. 15047, effective October 31, 1983; amended at 7 Ill. Reg. 17358, effective December 21, 1983; amended at 8 Ill. Reg. 254, effective December 21, 1983; emergency amendment at 8 Ill. Reg. 580, effective January 1, 1984, for a maximum of 150 days; codified at 8 Ill. Reg. 2483; amended at 8 Ill. Reg. 3012, effective February 22, 1984; amended at 8 Ill. Reg. 5262, effective April 9, 1984; amended at 8 Ill. Reg. 6785, effective April 27, 1984; amended at 8 Ill. Reg. 6983, effective May 9, 1984; amended at 8 Ill. Reg. 7258, effective May 16, 1984; emergency amendment at 8 Ill. Reg. 7910, effective May 22, 1984, for a maximum of 150 days; amended at 8 Ill. Reg. 7910, effective June 1, 1984; amended at 8 Ill. Reg. 10032, effective June 18, 1984; emergency amendment at 8 Ill. Reg. 10062, effective June 20, 1984, for a maximum of 150 days; amended at 8 Ill. Reg. 13343, effective July 17, 1984; amended at 8 Ill. Reg. 13779, effective July 24, 1984; Sections 140.72 and 140.73 recodified to 89 Ill. Adm. Code 141 at 8 Ill. Reg. 16354; amended (by adding sections being codified with no substantive change) at 8 Ill. Reg. 17899; peremptory amendment at 8 Ill.

DEPARTMENT OF PUBLIC AID

NOTICE OF PROPOSED AMENDMENTS

Reg. 18151, effective September 18, 1984; amended at 8 Ill. Reg. 21629, effective October 19, 1984; peremptory amendment at 8 Ill. Reg. 21677, effective October 24, 1984; amended at 8 Ill. Reg. 22097, effective October 24, 1984; peremptory amendment at 8 Ill. Reg. 22155, effective October 29, 1984; amended at 8 Ill. Reg. 23218, effective November 20, 1984; emergency amendment at 8 Ill. Reg. 23721, effective November 21, 1984, for a maximum of 150 days; amended at 8 Ill. Reg. 25067, effective December 19, 1984; emergency amendment at 9 Ill. Reg. 407, effective January 1, 1985, for a maximum of 150 days; amended at 9 Ill. Reg. 2697, effective February 22, 1985; amended at 9 Ill. Reg. 6235, effective April 19, 1985; amended at 9 Ill. Reg. 8677, effective May 28, 1985; amended at 9 Ill. Reg. 9564, effective June 5, 1985; amended at 9 Ill. Reg. 10025, effective June 26, 1985; emergency amendment at 9 Ill. Reg. 11403, effective June 27, 1985, for a maximum of 150 days; amended at 9 Ill. Reg. 11357, effective June 28, 1985; amended at 9 Ill. Reg. 12000, effective July 24, 1985; amended at 9 Ill. Reg. 12306, effective August 5, 1985; amended at 9 Ill. Reg. 13998, effective September 3, 1985; amended at 9 Ill. Reg. 14684, effective September 13, 1985; amended at 9 Ill. Reg. 15503, effective October 4, 1985; amended at 9 Ill. Reg. 16312, effective October 11, 1985; amended at 9 Ill. Reg. 19138, effective December 2, 1985; amended at 9 Ill. Reg. 19737, effective December 9, 1985; amended at 10 Ill. Reg. 238, effective January 27, 1985; emergency amendment at 10 Ill. Reg. 798, effective January 1, 1986, for a maximum of 150 days; amended at 10 Ill. Reg. 672, effective January 6, 1986; amended at 10 Ill. Reg. 1206, effective January 13, 1986; amended at 10 Ill. Reg. 3041, effective January 24, 1986; amended at 10 Ill. Reg. 6981, effective April 16, 1986; amended at 10 Ill. Reg. 7825, effective April 30, 1986; amended at 10 Ill. Reg. 8128, effective May 7, 1986; emergency amendment at 10 Ill. Reg. 8912, effective May 13, 1986, for a maximum of 150 days; amended at 10 Ill. Reg. 11440, effective June 20, 1986; amended at 10 Ill. Reg. 14714, effective August 27, 1986; amended at 10 Ill. Reg. 15211, effective September 12, 1986; emergency amendment at 10 Ill. Reg. 16729, effective September 18, 1986, for a maximum of 150 days; amended at 10 Ill. Reg. 18808, effective October 24, 1986; amended at 10 Ill. Reg. 19742, effective November 12, 1986; amended at 10 Ill. Reg. 21784, effective December 15, 1986; amended at 11 Ill. Reg. 698, effective December 19, 1986; amended at 11 Ill. Reg. 1418, effective December 31, 1986; amended at 11 Ill. Reg. 2323, effective January 16, 1987; amended at 11 Ill. Reg. 4002, effective February 25, 1987; Section 140.71 recodified to 89 Ill. Adm. Code 141 at 11 Ill. Reg. 4302; amended at 11 Ill. Reg. 4303, effective March 6, 1987; amended at 11 Ill. Reg. 7664, effective April 15, 1987; emergency amendment at 11 Ill. Reg. 9342, effective April 20, 1987, for a maximum of 150 days; amended at 11 Ill. Reg. 9169, effective April 28, 1987; amended at 11 Ill. Reg. 10903, effective June 1, 1987; amended at 11 Ill. Reg. 11528, effective June 22, 1987; amended at 11 Ill. Reg. 12011, effective June 30, 1987; amended at 11 Ill. Reg. 12290, effective July 6, 1987; amended at 11 Ill. Reg. 14048, effective August 14, 1987; amended at 11 Ill. Reg. 14771, effective August 25, 1987; amended at 11 Ill. Reg. 16758, effective September 28, 1987; amended at 11 Ill. Reg. 17295, effective September 30, 1987; amended at 11 Ill. Reg. 18696, effective October 27, 1987; amended at 11 Ill. Reg. 20909, effective December 14, 1987; amended

DEPARTMENT OF PUBLIC AID

NOTICE OF PROPOSED AMENDMENTS

Ill. Reg. 7004, effective May 17, 1993; expeditious correction at 17 Ill. Reg. 7078, effective December 1, 1992; emergency amendment at 17 Ill. Reg. 11201, effective July 1, 1993, for a maximum of 150 days; emergency amendment at 17 Ill. Reg. 15162, effective September 2, 1993, for a maximum of 150 days; emergency amendment at 17 Ill. Reg. 18152, effective October 1, 1993, for a maximum of 150 days; amended at 17 Ill. Reg. 18571, effective October 8, 1993; emergency amendment at 17 Ill. Reg. 18611, effective October 1, 1993, for a maximum of 150 days; emergency amendment suspended effective October 12, 1993; amended at 17 Ill. Reg. 20999, effective November 24, 1993; emergency amendment repealed at 17 Ill. Reg. 22583, effective December 20, 1993; amended at 18 Ill. Reg. 3620, effective February 28, 1994; amended at 18 Ill. Reg. 4250, effective March 4, 1994; amended at 18 Ill. Reg. 5951, effective April 1, 1994; emergency amendment at 18 Ill. Reg. 10922, effective July 1, 1994, for a maximum of 150 days; emergency amendment suspended, effective November 15, 1994; emergency amendment repealed at 19 Ill. Reg. 5839, effective April 4, 1995; amended at 18 Ill. Reg. 11244, effective July 1, 1994; amended at 18 Ill. Reg. 14126, effective August 29, 1994; amended at 18 Ill. Reg. 16675, effective November 1, 1994; amended at 18 Ill. Reg. 18059, effective December 19, 1994; amended at 19 Ill. Reg. 1082, effective January 20, 1995; amended at 19 Ill. Reg. 2933, effective March 1, 1995; emergency amendment at 19 Ill. Reg. 3529, effective March 1, 1995, for a maximum of 150 days; amended at 19 Ill. Reg. 5663, effective April 1, 1995; amended at 19 Ill. Reg. 7919, effective June 5, 1995; emergency amendment at 19 Ill. Reg. 8455, effective June 9, 1995, for a maximum of 150 days; emergency amendment at 19 Ill. Reg. 9297, effective July 1, 1995, for a maximum of 150 days; emergency amendment at 19 Ill. Reg. 10252, effective July 1, 1995, for a maximum of 150 days; amended at 19 Ill. Reg. 13019, effective September 5, 1995; amended at 19 Ill. Reg. 14440, effective September 29, 1995; emergency amendment at 19 Ill. Reg. 14833, effective October 6, 1995, for a maximum of 150 days; amended at 19 Ill. Reg. 15441, effective October 26, 1995; amended at 19 Ill. Reg. 15692, effective November 6, 1995; amended at 19 Ill. Reg. 16677, effective November 28, 1995; amended at 20 Ill. Reg. 1210, effective December 29, 1995; amended at 20 Ill. Reg. 4345, effective March 4, 1996; amended at 20 Ill. 5858, effective April 5, 1996; amended at 20 Ill. Reg. 6929, effective May 6, 1996; amended at 20 Ill. Reg. 7922, effective May 31, 1996; amended at 20 Ill. Reg. 9081, effective June 28, 1996; emergency amendment at 20 Ill. Reg. 9312, effective July 1, 1996, for a maximum of 150 days; amended at 20 Ill. Reg. 11332, effective August 1, 1996; amended at 20 Ill. Reg. 14845, effective October 31, 1996; emergency amendment at 21 Ill. Reg. 705, effective December 31, 1996, for a maximum of 150 days; emergency amendment at 21 Ill. Reg. 3734, effective March 5, 1997, for a maximum of 150 days; amended at 21 Ill. Reg. 4777, effective April 2, 1997; amended at 21 Ill. Reg. 6899, effective May 23, 1997; amended at 21 Ill. Reg. 9763, effective July 15, 1997; amended at 21 Ill. Reg. 11569, effective August 1, 1997; emergency amendment at 21 Ill. Reg. 13857, effective October 1, 1997, for a maximum of 150 days; amended at 22 Ill. Reg. 1416, effective December 29, 1997; amended at 22 Ill. Reg. 4412, effective February 27, 1998; amended at 22 Ill. Reg. 7024, effective April 1, 1998; amended at 22 Ill. Reg. 10606, effective June 1, 1998; emergency amendment at 22 Ill. Reg. 13117, effective July 1, 1998, for a

DEPARTMENT OF PUBLIC AID

NOTICE OF PROPOSED AMENDMENTS

maximum of 150 days; amended at 22 Ill. Reg. 16302, effective August 28, 1998; amended at 22 Ill. Reg. 18979, effective September 30, 1998; amended at 22 Ill. Reg. 19898, effective October 30, 1998; emergency amendment at 22 Ill. Reg. 22108, effective December 1, 1998, for a maximum of 150 days, emergency expired April 29, 1999; amended at 23 Ill. Reg. 5796, effective April 30, 1999; amended at 23 Ill. Reg. 7122, effective June 1, 1999; emergency amendment at 23 Ill. Reg. 8236, effective July 1, 1999, for a maximum of 150 days; amended at 23 Ill. Reg. 9874, effective August 3, 1999; amended at 23 Ill. Reg. 12697, effective October 1, 1999; amended at 23 Ill. Reg. 13646, effective November 1, 1999; amended at 23 Ill. Reg. 14567, effective December 1, 1999; amended at 24 Ill. Reg. 661, effective January 3, 2000; amended at 24 Ill. Reg. 10277, effective July 1, 2000; emergency amendment at 24 Ill. Reg. 10436, effective July 1, 2000, for a maximum of 150 days; amended at 24 Ill. Reg. 15086, effective October 1, 2000; amended at 24 Ill. Reg. 18320, effective December 1, 2000; emergency amendment at 24 Ill. Reg. 19344, effective December 15, 2000, for a maximum of 150 days; amended at 25 Ill. Reg. 3897, effective March 1, 2001; amended at 25 Ill. Reg. 6665, effective May 11, 2001; amended at 25 Ill. Reg. 8793, effective July 1, 2001; emergency amendment at 25 Ill. Reg. 8850, effective July 1, 2001, for a maximum of 150 days; amended at 25 Ill. Reg. 11880, effective September 1, 2001; amended at 25 Ill. Reg. 12820, effective October 8, 2001; amended at 26 Ill. Reg. _____, effective _____.

SUBPART E: GROUP CARE

Section 140.523 Bed Reserves

a) Nursing Facilities

- 1) All bed reserves must:
 - A) be authorized by a physician ~~and in the case of hospitalization, the physician must anticipate that the hospitalization will not exceed ten days;~~
 - B) have post payment approval from Bureau of Long Term Care staff based on satisfying the requirements of this Section;
 - C) be limited to residents who desire to return to the same facility; and
 - D) be limited to facilities having a 93 percent or higher occupancy level. The occupancy level shall be calculated including both payable and non-payable (non-payable defined as those residents that have transitioned from the maximum days allowed for payable bed reserve to non-payable bed reserve status) bedhold days as occupied beds.
- 2) Payment may be approved for hospitalization for a period not to exceed ~~five~~ ~~ten~~ days per hospital stay. The day the resident is transferred to the hospital is the first day of the reserve bed period.
- 3) Payment may be approved for home visits which have been indicated by a physician as therapeutically beneficial. In such instances,

DEPARTMENT OF PUBLIC AID

NOTICE OF PROPOSED AMENDMENTS

bed reserve is limited to five ~~seven~~ consecutive ~~or~~ non-consecutive days in a billing month ~~or--ten--non-consecutive days--in--a-billing-month.~~ The day after the resident leaves the facility is the first day of the reserve bed period. Home visits may be extended with the approval of the Department.

4) Bureau of Long Term Care staff will approve ongoing therapeutic home visits based on the physician's standing orders for the individual. Standing orders for therapeutic home visits limited to five ~~ten~~ days per month are valid for a period not exceeding six months.

5) Payment for approved bed reserves is a daily rate at 33 ~~75~~ percent of an individual's current Medicaid per diem.

6) In no facility may the number of vacant beds be less than the number of beds identified for residents having an approved bed reserve. The number of vacant beds in the facility must be equal to or greater than the number of residents allowed bed reserve.

b) ICF/MR Facilities (including ICF/DD and SNF/Ped licenses)

1) All bed reserves must:

- A) be authorized by the interdisciplinary team (IDT); and
- B) be limited to residents who desire to return to the same facility.

2) There is no minimum occupancy level ICF/MR facilities must meet for receiving bed reserve payments.

3) In no facility may the number of vacant beds be less than the number of beds identified for residents having an approved bed reserve. The number of vacant beds in the facility must be equal to or greater than the number of residents allowed bed reserve.

4) Payment may be approved for hospitalization for a period not to exceed 45 consecutive days. The day the resident is transferred to the hospital is the first day of the reserve bed period. Payment for approved bed reserves for hospitalization is a daily rate at:

- A) 100 percent of a facility's current Medicaid per diem for the first ten days of an admission to a hospital;
- B) 75 percent of a facility's current Medicaid per diem for days 11 through 30 of the admission;
- C) 50 percent of a facility's current Medicaid per diem for days 31 to 45 of the admission.

5) Payment may be approved for therapeutic visits which have been indicated by the IDT as therapeutically beneficial. There is no limitation on the bed reserve days for such approved therapeutic visits. The day after the resident leaves the facility is the first day of the bed reserve period. Payment for approved bed reserves for therapeutic visits is a daily rate at:

- A) 100 percent of a facility's current Medicaid per diem for a period not to exceed ten days per State fiscal year;
- B) 75 percent of a facility's current Medicaid per diem for a period which exceeds ten days per State fiscal year.

DEPARTMENT OF PUBLIC AID

NOTICE OF PROPOSED AMENDMENTS

(Source: Amended at 26 Ill. Reg. _____, effective _____)

DEPARTMENT OF PUBLIC HEALTH
NOTICE OF PROPOSED AMENDMENTS

1) Heading of the Part: Illinois Home Health Agency Code
2) Code Citation: 77 Ill. Adm. Code 245

3) Section Numbers: Proposed Action:
245.50 Amendment
245.70 Amendment

4) Statutory Authority: Home Health Agency Licensing Act [210 ILCS 55]

5) A Complete Description of the Subjects and Issues Involved: Section 245.50 is being amended to delete "occupational therapist" as being able to conduct initial assessment. A sentence that was omitted the last time the rule was amended is being reinserted in subsection (d)(1).

Section 245.70 is being amended to remove the requirement that home health aides establishing equivalency from another state take the Department's nurse aide competency test. The rule is also being amended to reflect federal requirements and the Department's acceptance of documentation from other states.

The economic effect of this proposed rulemaking is unknown. Therefore, the Department requests any information that would assist in calculating this effect.

The Department anticipates adoption of this rulemaking approximately six to nine months after publication of the notice in the *Illinois Register*.

6) Will this Rulemaking Replace an Emergency Rulemaking Currently in Effect?
No

7) Does this Rulemaking Contain an Automatic Repeal Date? No

8) Does this Rulemaking Contain Any Incorporations By Reference? No

9) Are there any other Proposed Amendments Pending on this Part? No

10) Statement of Statewide Policy Objectives: This rulemaking does not create or expand a State Mandate.

11) Time, Place, and Manner in which Interested Persons May Comment on this Rulemaking: Interested persons may present their comments concerning this rulemaking within 45 days after this issue of the *Illinois Register* to:

Peggy Snyder
Division of Legal Services
Illinois Department of Public Health
535 West Jefferson St., 5th Floor

DEPARTMENT OF PUBLIC HEALTH
NOTICE OF PROPOSED AMENDMENTS

Springfield, Illinois 62761
217/782-2043
e-mail: rules@idph.state.il.us

These rules may have an impact on small businesses. In accordance with Sections 1-75 and 5-30 of the Illinois Administrative Procedure Act, any small business may present their comments in writing to Peggy Snyder at the above address.

Any small business (as defined in Section 1-75 of the Illinois Administrative Procedure Act) commenting on these rules shall indicate their status as such, in writing, in their comments.

12) Initial Regulatory Flexibility Analysis:

A) Type of Small Businesses, Small Municipalities and Not-for-Profit Corporations Affected: Home health agencies

B) Reporting, Bookkeeping or Other Procedures Required for Compliance:
None

C) Types of Professional Skills Necessary for Compliance: None

13) Regulatory Agenda on which this rulemaking was summarized: This rulemaking was not included on either of the 2 most recent regulatory agendas because: the need for the rulemaking was not apparent at that time.

The full text of the Proposed Amendments begins on the next page:

DEPARTMENT OF PUBLIC HEALTH

NOTICE OF PROPOSED AMENDMENTS

TITLE 77: PUBLIC HEALTH

CHAPTER I: DEPARTMENT OF PUBLIC HEALTH

SUBCHAPTER b: HOSPITALS AND AMBULATORY CARE FACILITIES

PART 245

ILLINOIS HOME HEALTH AGENCY CODE

SUBPART A: GENERAL PROVISIONS

Section

- 245.10 Purpose
- 245.20 Definitions
- 245.25 Incorporated and Referenced Materials

SUBPART B: OPERATIONAL REQUIREMENTS

Section

- 245.30 Organization and Administration
- 245.40 Staffing and Staff Responsibilities
- 245.50 Services
- 245.60 Annual Financial Statement
- 245.70 Home Health Aide Training
- 245.72 Health Care Worker Background Check

SUBPART C: LICENSURE PROCEDURES

Section

- 245.80 Licensure Required
- 245.90 License Application
- 245.100 Provisional License
- 245.110 Inspections and Investigations
- 245.120 Violations
- 245.130 Adverse Licensure Actions
- 245.140 Penalties and Fines
- 245.150 Hearings

AUTHORITY: Implementing and authorized by the Home Health Agency Licensing Act [210 ILCS 55].

SOURCE: Adopted at 2 Ill. Reg. 31, p. 77, effective August 2, 1978; emergency amendment at 3 Ill. Reg. 38, p. 314, effective September 7, 1979, for a maximum of 150 days; amended at 3 Ill. Reg. 40, p. 153, effective October 6, 1979; emergency amendment at 4 Ill. Reg. 18, p. 129, effective April 21, 1980, for a maximum of 150 days; amended at 4 Ill. Reg. 40, p. 56, effective September 23, 1980; emergency amendment at 6 Ill. Reg. 5855, effective April 28, 1982, for a maximum of 150 days; amended at 6 Ill. Reg. 11006, effective August 30, 1982; amended at 7 Ill. Reg. 13665, effective October 4, 1983; codified at 8 Ill. Reg. 16829; amended at 9 Ill. Reg. 4836, effective April 1, 1985; amended at 14

DEPARTMENT OF PUBLIC HEALTH

NOTICE OF PROPOSED AMENDMENTS

Ill. Reg. 2382, effective February 15, 1990; amended at 15 Ill. Reg. 5376, effective May 1, 1991; amended at 18 Ill. Reg. 2414, effective January 22, 1994; emergency amendments at 20 Ill. Reg. 488, effective January 1, 1996, for a maximum of 150 days; emergency expired May 29, 1996; amended at 20 Ill. Reg. 3273, effective February 15, 1996; amended at 20 Ill. Reg. 10033, effective July 15, 1996; amended at 22 Ill. Reg. 3948, effective February 13, 1998; amended at 22 Ill. Reg. 22050, effective December 10, 1998; amended at 23 Ill. Reg. 1028, effective January 15, 1999; amended at 24 Ill. Reg. 17213, effective November 1, 2000; amended at 25 Ill. Reg. 6379, effective May 1, 2001; amended at 26 Ill. Reg. _____, effective _____.

SUBPART B: OPERATIONAL REQUIREMENTS

Section 245.50 Services

a) Services Provided

- 1) Each agency shall provide skilled nursing service and at least one other home health service on a part-time or intermittent basis. The basic skilled nursing service shall be provided directly by agency staff. Other home health services may be provided by agency staff directly or through a contractual purchase of services. Additional skilled specialty nursing services and use of additional nursing staff to meet changes in caseload may be provided by contract. All services shall be provided in accordance with the orders of the patient's physician or podiatrist, under a plan of treatment established by such physician or podiatrist, and under the supervision of agency staff.

- 2) The agency shall state in writing what services will be provided directly and what services will be provided under contractual arrangements.

- 3) Services provided under contractual arrangements shall be through a written agreement that includes but is not limited to the following:

- A) Services to be provided.
- B) Provision for adherence to all applicable agency policies and personnel requirements, including requirements for initial health evaluations and employee health policies.
- C) Designation of full responsibility for agency control over contracted services.
- D) Procedures for submitting clinical and progress notes.
- E) Charges for contracted services.
- F) Statement of responsibility of liability and insurance coverage.
- G) Period of time in effect.
- H) Date and signatures of appropriate authorities.
- I) Provision for termination.

- b) Acceptance of Patients. Patient acceptance and discharge policies

DEPARTMENT OF PUBLIC HEALTH

NOTICE OF PROPOSED AMENDMENTS

shall include but not be limited to the following:

- 1) Persons shall be accepted for health service on a part-time or intermittent basis upon a plan of treatment established by the patient's physician or podiatrist. This plan shall be in writing within 14 days.
- 2) Prior to acceptance, the person shall be informed of the agency's charges for the various services that it offers.
- 3) No person shall be refused service because of age, race, color, sex, marital status, national origin or source of payment. An agency is not required to accept a patient whose source of payment is less than the cost of the service.
- 4) Patients are accepted for treatment on the basis of a reasonable expectation that the patient's medical, nursing, and social needs can be met adequately by the agency in the patient's place of residence.
- 5) When services are to be terminated by the home health agency, the patient is to be notified three working days in advance of the date of termination, stating the reason for termination. This information shall be documented in the clinical record. When indicated, a plan shall be developed or a referral made for any continuing care.
- 6) Services shall not be terminated until such time as the registered nurse, the appropriate therapist, or both, in consultation with the patient's physician or podiatrist, deem it appropriate or arrangements are made for continuing care.

c) Plan of Treatment

- 1) Skilled nursing and other home health services shall be in accordance with a plan based on the patient's diagnosis and assessment of the patient's immediate and long-range needs and resources. The plan of treatment is established in consultation with the home health services team, which includes the patient's physician or podiatrist, pertinent members of the agency staff, the patient and members of the patient's family. The plan of treatment shall include:
 - A) Diagnoses.
 - B) Functional limitations and rehabilitation potential.
 - C) Expected outcomes for the patient.

D) The patient's physician's or podiatrist's regimen of:

- i) Medications;
- ii) Treatments;
- iii) Activity;
- iv) Diet;
- v) Specific procedures deemed essential for the health and safety of the patient;
- vi) Mental status;
- vii) Frequency of visits;
- viii) Equipment required; and
- ix) Instructions for timely discharge or referral.

DEPARTMENT OF PUBLIC HEALTH

NOTICE OF PROPOSED AMENDMENTS

- E) The patient's physician's or podiatrist's signature and date.

- 2) Consultation with the patient's physician or podiatrist on any modifications in the plan of treatment deemed necessary shall be documented, and the patient's physician's or podiatrist's signature shall be obtained within 14 days after any modification of the medical plan of treatment.

- 3) The plan shall be reviewed by the home health services team every 62 days or more often should the patient's condition warrant.

- 4) An updated plan of treatment shall be given to the patient's physician or podiatrist for review, for any necessary revisions, and for signature every 62 days or more often as indicated.

d) Patient Care Plan

- 1) Home health services from members of the agency staff as well as those under contractual arrangements shall be given in accordance with the plan of treatment and the patient care plan. The patient care plan shall be written by appropriate members of the home health services team based upon the plan of treatment and an assessment of the patient's needs, resources, family and environment. The initial assessment is to be made by a registered nurse. Assessment by other members of the health services team shall be made on orders of the patient's physician or podiatrist or by request of a registered nurse. In those circumstances where the patient's physician has ordered only therapy services, the appropriate therapist (physical therapist or speech-language pathologist or occupational therapist) may perform the initial assessment. Assessment by other members of the health services team shall be made on orders of the patient's physician or podiatrist or by request of a registered nurse.

- 2) The patient care plan shall be updated as often as the patient's condition indicates. The plan shall be maintained as a permanent part of the patient's record. The patient care plan shall indicate:
 - A) Patient problems.
 - B) Patient's goals, family's goals, service goals.
 - C) Service approaches to modify or eliminate problems.
 - D) The staff responsible for a given element of service.
 - E) Anticipated outcome of service approach with an estimated time frame for completion.
 - F) Potential for discharge from service.

- e) Clinical Records. Each patient shall have a clinical record, identifiable for home health services and maintained by the agency in accordance with accepted professional standards. Clinical records shall contain:
 - 1) Appropriate identifying information for the patient, household members and caretakers, medical history and current findings.
 - 2) A plan of treatment signed by the patient's physician or podiatrist.

DEPARTMENT OF PUBLIC HEALTH

NOTICE OF PROPOSED AMENDMENTS

- 3) A patient care plan developed by the home health services team that is in accord with the patient's physician's or podiatrist's plan of treatment.
- 4) A noted medication list with dates reviewed, revised and date sent to the patient's physician or podiatrist.
- 5) Initial and periodic patient assessments by the registered nurse, which include documentation of the patient's functional status and eligibility for service.
- 6) Assessments made by other members of the home health services team.
- 7) Signed and dated clinical notes for each contact, which are written the day of service and incorporated into the patient's clinical record at least weekly.
- 8) Reports on all patient home health care conferences.
- 9) Reports of contacts with the patient's physician or podiatrist by patient and staff.
- 10) Indication of supervision of home health services by the supervising nurse, a registered nurse, or other members of the home health services team.
- 11) Written summary reports sent to the patient's physician or podiatrist every 62 days containing home health services provided, the patient's status, recommendations for revision of the plan of treatment and the need for continuation or termination of services noted.
- 12) Written and signed confirmation of the patient's physician's or podiatrist's interim verbal orders.
- 13) A discharge summary giving a brief review of service, patient status, reason or reasons for discharge and plans for post discharge needs of the patient. A discharge summary may suffice as documentation to close the patient record for one-time visits and short-term or event-focused or diagnosis-focused interventions. The discharge summary need not be a separate piece of paper and may be incorporated into the routine summary reports already furnished to the physician.
- 14) A copy of appropriate patient information, when requested, if the patient is transferred to another health facility or health agency.
- 15) Each agency shall have a written policy on records procedures and shall retain records for a minimum of five years beyond the last date of service provided. These procedures may include that the agency will utilize and maintain faxed copies of records from licensed professionals, rather than original records, provided that the faxed copies will be maintained on nonthermal paper and that the original records will be maintained for a period of five years by the professional who originated the records. If that professional is providing services through a contract with the agency, then the contract must include that the original records must be maintained for a period of five years by the

DEPARTMENT OF PUBLIC HEALTH

NOTICE OF PROPOSED AMENDMENTS

- 16) Those agencies which are subject to the Local Records Act should note that *except as otherwise provided by law, no public record shall be disposed of by any officer or agency unless the written approval of the appropriate Local Records Commission is first obtained.* (Section 7 of the Local Records Act [50 ILCS 205/7])
- 17) Each agency shall have a written policy and procedure for the protection of confidentiality of patient records, which explains the use of records, removal of records and release of information.
- f) Drugs and Biologicals. The agency shall have written policies governing the supervision and administration of drugs and biologicals, which shall include but not be limited to the following:
 - 1) All orders for medications to be given shall be dated and signed by the patient's physician or podiatrist.
 - 2) All orders for medications shall contain the name of the drug, dosage, frequency, method or site of injection and permission from the patient's physician or podiatrist if the patient, the patient's family, or both are to be taught to give medications.
 - 3) The agency's physician or podiatrist or registered nurse shall check all medicines a patient may be taking to identify possible ineffective drug therapy or adverse reactions, significant side effects, drug allergies, and contraindicated medications and shall promptly report any problem to the patient's physician or podiatrist.
 - 4) All verbal orders for medication or change in medication orders shall be taken by the registered nurse, written, and signed by the patient's physician or podiatrist within 14 days.
 - 5) When any experimental drug, sera, allergenic desensitizing agent, penicillin or any other potentially hazardous drug is administered, the registered nurse administering such drugs shall have an emergency plan and any drugs and devices that may be necessary in the event of a drug reaction.
 - g) Evaluation. The home health agency shall have written policies and shall make an overall evaluation of the agency's total program at least once a year. This evaluation shall be made by the Professional Advisory Group (or a committee of this group), home health agency staff, consumers, or representation from professional disciplines that are participating in the provision of home health services. The evaluation shall consist of an overall policy and administrative review and a clinical record review. The evaluation shall assess the extent to which the agency's program is appropriate, adequate, effective and efficient. Results of the evaluation shall be reported to and acted upon by those responsible for the operation of the agency and maintained separately as administrative records.
 - h) Policy and Administrative Review. As a part of the evaluation process, the policies and administrative practices of the agency shall be reviewed to determine the extent to which they promote patient care

DEPARTMENT OF PUBLIC HEALTH

NOTICE OF PROPOSED AMENDMENTS

that is appropriate, adequate, effective and efficient. Mechanisms shall be established in writing for the collection of pertinent data to assist in evaluation. The data to be considered may include but are not limited to: number of patients receiving each service offered, number of patient visits, reasons for discharge, breakdown by diagnosis, sources of referral, number of patients not accepted with reasons and total staff days for each service offered.

i) Clinical Record Review

1) At least quarterly, members of professional disciplines representing at least the scope of the agency's programs, shall review a sample of both active and closed clinical records to assure that established policies are followed in providing services (direct, as well as those under contractual arrangement). This review shall include, but not be limited to:

- A) Whether the patient care plan was directly related to the stated diagnosis and plan of treatment;
- B) Whether the frequency of visits was consistent with the plan of treatment;
- C) Whether the services could have been provided in a shorter span of time.

2) Clinical records shall be reviewed continually for each 62 day period that a patient received home health services to determine the adequacy of the plan of treatment and the appropriateness of continuing home health care.

(Source: Amended at 26 Ill. Reg. _____, effective _____)

Section 245.70 Home Health Aide Training

a) Each home health agency shall ensure that all persons employed as home health aides or under any other title, whose duties are to assist with the personal, nursing or medical care of the patients, and who are not otherwise licensed, certified or registered in accordance with Illinois law to render such care, comply with one of the following conditions:

- 1) Is approved on the Department's Nurse Aide Registry. "Approved" means that the home health aide has met the training or equivalency requirements of this Section and does not have a disqualifying background check without a waiver (see Section 245.72); or
- 2) Training requirements shall be met by completion of a training program approved under the Long-Term Care Assistants and Aides Training Programs Code (see 77 Ill. Adm. Code 395) or -
- 3) Meet equivalencies established in subsection (b) of this Section.

b) Equivalency may be established by any one of the following:

- 1) Documentation of current registration from another state

~~successful completion of a training course approved by another~~

DEPARTMENT OF PUBLIC HEALTH

NOTICE OF PROPOSED AMENDMENTS

~~state as evidenced by a diploma or certificate, and successful completion of the written portion of the Department-established nursing assistant competency test.~~

2) Documentation of successful completion of a nursing arts course, which included at least 40 hours of supervised clinical experience, in an accredited nurse training program as evidenced by diploma, certificate or other written verification from the school, and successful completion of the written portion of the Department-established nursing assistant competency test.

3) Documentation of successful completion of a United States military training program that includes the content of the Basic Nursing Assistant Training Program (see 77 Ill. Adm. Code 395), as evidenced by a diploma, certification DD-214, or other written verification, and successful completion of the written portion of the Department-established nursing assistant competency evaluation.

4) Documentation of completion of a nursing program in a foreign country, including the following, and successful completion of the written portion of the Department-established competency test:

- A) A copy of the license, diploma, registration or other proof of completion of the program;
- B) A copy of the Social Security card; and
- C) Visa or proof of citizenship.

c) Requests to establish equivalency shall be submitted to the Department with accompanying documentation.

d) The home health agency is responsible for assuring that the individuals who furnish home health aide services on its behalf are competent to carry out assigned tasks in the patient's place of residence. The competency evaluation conducted by a registered nurse in the home health agency shall address each of the following subjects:

- 1) Communication skills;
- 2) Observation, reporting and documentation of patient status and the care or service furnished;
- 3) Reading and recording temperature, pulse, and respiration;
- 4) Basic infection control procedures;
- 5) Basic elements of body functioning and changes in body function that must be reported to an aide's supervisor;
- 6) Maintenance of a clean, safe and healthy environment;
- 7) Recognizing emergencies and knowledge of emergency procedures;
- 8) The physical, emotional and developmental needs of and ways to work with the populations served by the home health agency, including the need for respect for the patient, his or her privacy and his or her property;
- 9) Appropriate and safe techniques in personal hygiene and grooming that include:
 - A) Bed bath;

DEPARTMENT OF PUBLIC HEALTH

NOTICE OF PROPOSED AMENDMENTS

- B) Sponge, tub or shower bath;
C) Shampoo - sink, tub, or bed;
D) Nail and skin care;
E) Oral hygiene;
F) Toileting and elimination;
10) Safe transfer techniques and ambulation;
11) Normal range of motion and positioning;
12) Adequate nutrition and fluid intake; and
13) Any other task that the agency may choose to have the home health aide perform.
- e) A home health agency shall not employ an individual as a home health aide unless the Agency has inquired of the Department as to information in the Nurse Aide Registry concerning findings of abuse, neglect, or misappropriation of property.

(Source: Amended at 26 Ill. Reg. _____, effective _____)

DEPARTMENT OF REVENUE

NOTICE OF PROPOSED AMENDMENTS

- 1) Heading of the Part: Board of Appeals
2) Code Citation: 86 Ill. Adm. Code 210
3) Section Numbers:
210.101 Amendment
210.102 New Section
210.105 Amendment
210.110 Amendment
210.114 New Section
210.115 Amendment
210.120 Amendment
210.125 Repeal
210.126 Amendment
210.130 Amendment
210.135 Amendment
210.140 New Section
- 4) Statutory Authority: 20 ILCS 2505/2505-250
- 5) A Complete Description of the Subjects and Issues Involved: This rulemaking is an updating of the Board of Appeals rules to provide additional detail as to the policies and procedures of the Board.
- 6) Will this proposed amendment replace an emergency rule currently in effect? No
- 7) Does this rulemaking contain an automatic repeal date? No
- 8) Does this proposed amendment contain incorporations by reference? No
- 9) Are there any other proposed amendments pending on this Part? No
- 10) Statement of Statewide Policy Objectives: This rulemaking does not create a State mandate, nor does it modify any existing State mandates.
- 11) Time, Place and Manner in which interested persons may comment on this proposed rulemaking: Persons who wish to submit comments on this proposed rulemaking may submit them in writing by no later than 45 days after publication of this notice to:

Keith Staats
General Counsel
Illinois Department of Revenue
Legal Services Office
101 West Jefferson
Springfield, Illinois 62794
(217)782-7296

DEPARTMENT OF REVENUE
NOTICE OF PROPOSED AMENDMENTS

TITLE 86: REVENUE
CHAPTER I: DEPARTMENT OF REVENUE
PART 210
BOARD OF APPEALS

Section	
210.101	Filing of Written Petition
210.102	Temporary Restraining Orders
210.105	Hearings
210.110	Recommendations
210.114	Board Case Subject Matter
210.115	Offers in Compromise
210.120	Waiver of Penalty and Interest
210.125	Denial by Lapse of Time (Repealed)
210.126	Voluntary Disclosure
210.130	Departmental Controversies
210.135	Decisions of the Board
210.140	Confidentiality

AUTHORITY: Implementing and authorized by Sections 2505-505, 2505-250 and 2505-190 of the Civil Administrative Code of Illinois [20 ILCS 2505/2505-505, 2505-250 and 2505-190].

SOURCE: Adopted at 5 Ill. Reg. 5348, effective April 30, 1981; codified at 6 Ill. Reg. 801, effective January 5, 1982; amended at 13 Ill. Reg. 6782, effective April 12, 1989; emergency amendment at 17 Ill. Reg. 665, effective January 1, 1993, for a maximum of 150 days; amended at 17 Ill. Reg. 8860, effective June 2, 1993; emergency amendment at 24 Ill. Reg. 14793, effective September 25, 2000, for a maximum of 150 days; amended at 25 Ill. Reg. 182, effective December 26, 2000; amended at 26 Ill. Reg. _____, effective _____.

Section 210.101 Filing of Written Petition

- The filing of a written Petition shall commence a review by the Board of Appeals. The review shall pertain to requests for abatement of penalties and/or interest based upon reasonable cause, or offers in compromise of the total liability based solely on the taxpayer's financial hardship or inability to pay the tax debt. The Board consists of 3 persons appointed by the Director of the Department of Revenue.
- The Petition shall be filed in a form prescribed by the Board (BOA-1) and shall identify the taxpayer, briefly state the facts of the case, and specify the relief requested and the reasons for the request. A memorandum of law may be appended. No other pleading shall be filed.
- A review before the Board of Appeals (Board) shall be commenced by the filing of a written petition. Except as provided in Sections 210.126

DEPARTMENT OF REVENUE
NOTICE OF PROPOSED AMENDMENTS

12) Initial Regulatory Flexibility Analysis:

- Types of small businesses, small municipalities and not-for-profit corporations affected: Any small business or not-for-profit corporation that wishes to request relief from the Board of Appeals.
- Reporting, bookkeeping or other procedures required for compliance: None
- Types of professional skills necessary for compliance: None

13) Regulatory Agenda on which this rulemaking was summarized: This rulemaking was not on either of the last 2 regulatory agendas because: it was unanticipated at the time the agendas were prepared.

The full text of the Proposed Amendments begins on the next page:

DEPARTMENT OF REVENUE

NOTICE OF PROPOSED AMENDMENTS

and 210.130, no Petition shall be filed prior to the time that a notice of deficiency or notice of tax liability has become final. A notice of deficiency or notice of tax liability is final when all administrative hearings and proceedings in court to review such assessment have terminated or the time for the taking of those proceedings thereof has expired without such proceedings being instituted. ~~The--petition--shall--be--filed--in--a--form--prescribed--by--the Board--and--shall--identify--the--taxpayer--briefly--state--the--facts--of--the case--specify--the--relief--requested--and--the--reasons--therefor--A memorandum--of--law--may--be--appended--No--other--pleading--shall--be--filed--~~ If any professional or other person represents the taxpayer/Petitioner, a Power of Attorney, Form IL-2848, must also be filed with the Petition. The Power of Attorney must be executed within 6 months prior to the filing of the Petition and must contain the name of the specific representative making an appearance or contact with the Board.

d) A Petition may be amended by filing with the Board a letter or other writing containing the additional information the Petitioner or representative wants the Board to consider.

f) All Petitions and other Board forms must be filed at the Board headquarters by mail or personal delivery. The Board headquarters are located in Room 7-339, Thompson Center, 100 W. Randolph Street, Chicago, Illinois 60601. The Board's telephone number is 312-814-3004. The fax number is 312-814-3055. The web site is www.revenue.state.il.us, where Petitions and rules will be found.

g) The Petitioner must provide the Board with any additional information requested that the Board deems necessary and appropriate to consider the merits of the Petition. Failure to provide the requested information within a reasonable period of time as stated in writing to the Petitioner will result in the dismissal of the Petition.

h) A Financial Statement for Individuals (Form BOA-4) or a Financial Statement for Businesses (Form BOA-5) may need to be appended to the Petition as applicable for the Board's consideration.

i) The Board will take jurisdiction of a Petition only after the Department has determined final tax liability. The Board will also take jurisdiction in accordance with Section 210.130 of this Part. The Board will consider only Petitions that are given jurisdiction. To be given jurisdiction, in addition to a final assessment of tax or a notice of deficiency being on the Department's tax records, the Petition must be completed with all questions answered, signed by the taxpayer and his representative, all tax returns of the taxpayer must be on file and of record in the Department, and all necessary information must be attached to the Petition. Petitions not given jurisdiction will be returned to the taxpayer or representative as dismissed.

j) The Board will dismiss a taxpayer's subsequent Petition that seeks relief on taxes the Board has denied in a previous Order rendered on taxpayer's prior Petition on the same issue and taxes. The Board will

DEPARTMENT OF REVENUE

NOTICE OF PROPOSED AMENDMENTS

consider granting jurisdiction only if there is information included in the newly-filed Petition that was unavailable or undiscovered at the time of the Board's decision on the prior Petition, and the taxpayer's financial situation has changed substantially to his or her detriment. The Board will dismiss Petitions for other reasons as set forth in its Orders to include, but not be limited to, when an adjustment has been made reducing the liability to zero; when the case is in another venue (e.g., Administrative Hearings, bankruptcy or Circuit Court); when the taxpayer makes full payment and requests withdrawal; or when the taxpayer asks only for a payment plan from the Board.

(Source: Amended at 26 Ill. Reg. _____, effective _____)

Section 210.102 Temporary Restraining Orders

- a) The Board Members or hearing officers employed by the Board may issue temporary restraining orders (TRO) to halt collection enforcement by the Department of Revenue while the Board is considering the Petition.
- b) Collection enforcement excludes other collection methods specifically provided for under Illinois statutes, such as the Department's power to apply taxpayer credits and refunds to the outstanding liability. Also, the issuance of a temporary restraining order does not stay the accrual of interest, prevent the filing of a lien by the Department, remove an existing lien, or reinstate a business license revocation. A TRO will neither prevent the publication of, nor remove a Petitioner's name from publication on, the Internet delinquency list.
- c) A TRO must be requested in writing by marking the appropriate box on the BOA-1 (Part 3, Item 4) or in a separate letter filed subsequent to the filing of a Petition.

(Source: Added at 26 Ill. Reg. _____, effective _____)

Section 210.105 Hearings

- a) The Board may determine any relevant factual matter informally. Any ~~relevant-factual-matter-may-be-determined-by-the-Board-informally-~~ If necessary to adequately develop the facts alleged to be grounds for relief, a hearing by a hearing officer, a Board Member, or the full Board may be held.
- b) A Petitioner must request specifically a hearing by marking the appropriate box on the BOA-1 (Page 5, Item 13).
- c) Hearings may be held in Chicago, Springfield, or such other locations as determined by the Chairman based upon the number of cases, availability of space, and workload and availability of hearing officers or Board Members to hear the cases. The Notice of Hearing

DEPARTMENT OF REVENUE

NOTICE OF PROPOSED AMENDMENTS

(BOA-9) form shall be sent to each Petitioner when the hearing is scheduled, or to the representative, provided a valid IL-2848 has been included with the Petition.

d) The Board Member or hearing officer who conducted the hearing shall make a summarized report of the hearing for use by the full Board and the Director of Revenue (Director) only.

e) A hearing may be continued no more than twice for good cause shown. Good cause is defined as illness of the Petitioner or the representative, scheduling conflicts caused by prior arranged court trials or other meetings, severe inclement weather with resulting travel restrictions issued by government authorities preventing Petitioner or the representative from attending the hearing, or acts of God. No continuance shall be longer than 35 days. If a Petitioner is unable to attend a hearing under this Section, then the default or telephone hearing provisions will apply.

f) The Board, its members individually, or its hearing officers may conduct hearings in person, or by telephone by prior arrangement with the Petitioner. If a Petitioner defaults and does not appear at a previously scheduled hearing, by telephone or in person, then the Petition shall be decided on the basis of the information contained in the file. An Order shall be issued containing the Board's decision in that case in accordance with the usual decision making procedure.

g) Petitioners must present complete, truthful, and relevant information to the Board concerning their financial condition; the reasons the taxes at issue in the Petition have not been paid; and sufficient other financial and historical business information as the Board may request to obtain a total and accurate picture of the Petitioner's ability to pay the tax liability. The Petitioner must show the Board sufficient and substantial justification to persuade the Board to exercise its discretion in favor of the Petitioner. Petitioners must persuade the Board to a certainty that some type of relief is appropriate and in the best interests of the State of Illinois to grant any relief. This requirement is imposed upon the Petitioner who must affirmatively demonstrate to the Board in documents and at the hearing that relief is appropriate.

(Source: Amended at 26 Ill. Reg. _____, effective _____)

Section 210.110 Recommendations

a) No relief may be recommended to the Director except by affirmative vote of at least 2 Board Members, except as otherwise provided in this Section.

b) Upon occasion, Board Members may be required to recuse themselves from consideration of a particular case because of an actual or potential conflict of interest. In such situations, no relief may be recommended to the Director except by an affirmative vote of the

DEPARTMENT OF REVENUE

NOTICE OF PROPOSED AMENDMENTS

majority of the Board Members who have considered the case.
c) The recommendation document shall be the "Order" submitted to the Board and the Director.

d) The Petitioner or his representative shall receive a copy of the signed Order.

(Source: Amended at 26 Ill. Reg. _____, effective _____)

Section 210.114 Board Case Subject Matter

The Board of Appeals may consider cases involving the following subject matters: offers in compromise; waivers or abatement of penalty or interest; voluntary disclosures; and cases and controversies referred to the Board by the Director, or undertaken by a unanimous vote of the Board Members because Board action is needed to efficiently and expeditiously dispose of a group of cases or a controversy involving one or more cases. The Board is not authorized to make legal determinations, such as the validity of an assessment of tax, except pursuant to the power set forth in Section 210.130 of this Part.

(Source: Added at 26 Ill. Reg. _____, effective _____)

Section 210.115 Offers in Compromise

a) A Petition ~~petttten~~ in the nature of an offer in compromise may be filed by the taxpayer. The only grounds for relief that may be propounded is uncertainty as to collectibility. No such Petition ~~petition~~ may be filed prior to an assessment of tax liability becoming final. All required tax returns must have been filed and of record prior to Board consideration.

b) "An offer in compromise" is defined as a proposal by taxpayer to pay a sum certain in full satisfaction of ~~to~~ taxpayer's unpaid amount of tax (including penalty and interest). A sum certain shall be a lump-sum offer, generally to be paid within a specific number of days (generally not to exceed 90 calendar days), or a reasonable installment payment proposal (which Petitioner must request specifically with his or her offer), generally payable over a period of time not to exceed 24 months to which the accrual of statutory interest would apply. The offer must be the Petitioner's best possible offer determined by the amount of tax, penalty and interest owed and the Petitioner's complete financial history and current financial status, along with the Petitioner's possible future earnings.

c) In considering taxpayer's proposal to pay a sum certain, the Board may examine taxpayer's financial situation and the likelihood of future earnings as well as the likelihood of collection of the amount due by the Department. With each Petition seeking acceptance of an offer in compromise, the Petitioner must submit copies of State and federal

DEPARTMENT OF REVENUE

NOTICE OF PROPOSED AMENDMENTS

income tax returns for the past three years, copies of bank statements for the past six months, the previous two pay stubs or vouchers for the Petitioner, and a BOA-4 (Personal Financial Statement) or a BOA-5 (Business Financial Statement). Failure to submit these documents with the Petition, or failure to provide them to the Board upon request, will result in a denial of the Petition.

d) The Board will consider the facts and other relevant information in each case to make its decision. The Board will consider, but not be limited to, the following matters:

- 1) the likelihood of collection of the debt;
- 2) the amount of the debt;
- 3) efforts the Petitioner has made to pay a part of the debt prior to filing a Petition;
- 4) the taxpayer's record of the Petitioner;
- 5) Petitioner's current and possible future earning capacity;
- 6) the portion of the tax itself that would be paid by the offer in compromise;
- 7) the composition of the balance of tax/penalty/interest due;
- 8) the percentage of the tax debt represented by the offer in compromise;
- 9) the Petitioner's age and health;
- 10) the Petitioner's net worth;
- 11) the acceptance by the Internal Revenue Service of an offer in compromise and the amount;
- 12) the age of the debt;
- 13) the existence of liens;
- 14) expiration of the statute of limitations;
- 15) current operating status of any business;
- 16) bankruptcy status;
- 17) whether all returns are on file;
- 18) whether penalties have been assessed against the corporate officers personally;
- 19) other liable parties;
- 20) source of compromise funds;
- 21) whether tax debt due is a trust tax collected by Petitioner but not remitted to the Department;
- 22) what other persons are liable and whether the Petitioner is located within Illinois;
- 23) the accuracy and veracity of the Petitioner's representations to the Board;
- 24) the recommendations of the Collection Bureau, Legal Services or the Attorney General, as appropriate; and
- 25) the expense and time expended in future collection efforts by the Department on the Petitioner's debt.

e) An offer in compromise is not a subject of negotiation between the Petitioner and the Board. If the Board determines that accepting an offer in compromise would not be in the best interests of the State as set forth in this Section, it will reject the offer. The Petitioner

DEPARTMENT OF REVENUE

NOTICE OF PROPOSED AMENDMENTS

shall not file another Petition upon rejection of the pending Petition merely to revise the offer earlier than 2 years from the date of the Board Order, except as provided in Section 210.135(c).

(Source: Amended at 26 Ill. Reg. _____, effective _____)

Section 210.120 Waiver of Penalty and Interest

a) A Petition petition for abatement of a penalty or interest may be filed only in cases where the Department has no other established procedure of determination of the issue.

b) The Board may waive penalty or interest only in the following situations:

- 1) A late filing due to reasonable cause Reasonable-Cause; or
- 2) Unreasonable delays caused by the Department in any process under the control of the Department; or
- 3) A timely payment has been made to the Department by a person other than the person who is actually liable for the tax; or
- 4) The Board has taken special jurisdiction over a case pursuant to Section 210.130; or
- 5) The Board determines that the Department has acted improperly in dealing with a taxpayer; or
- 6) Where otherwise provided for by statute.

c) If the taxpayer exercised ordinary business care and prudence and was nevertheless unable to file the return or to remit the required payments within the prescribed time, the delay is due to a reasonable cause.

d) The Board may consider taxpayer's compliance history including previous tax violations with the Department in considering taxpayer's Petition petition for relief based on reasonable cause.

(Source: Amended at 26 Ill. Reg. _____, effective _____)

Section 210.125 Denial by Lapse of Time (Repealed)

If no action is taken by the Board and written notice thereof mailed within 365 days after the date of filing, the petition is deemed denied.

(Source: Repealed at 26 Ill. Reg. _____, effective _____)

Section 210.126 Voluntary Disclosure

a) Statutory authority. The statutory authority for the voluntary disclosure program is found at 35 ILCS 735/3-10. Section 39e-4 of the Civil Administrative Code of Illinois, as added by P.A. 07-1246, sets

DEPARTMENT OF REVENUE

NOTICE OF PROPOSED AMENDMENTS

forth-litimation-periods-for-the-assessment-of-taxes-by--the--Illinois Department--of--Revenue--(Department)--. In-the-case-of-a-failure-to-file a-return--required--by--law--that--is--voluntarily--disclosed--to--the Department,--in--accordance-with-this-Section--the-tax-may-be-assessed no-more-than-4-years-after-the-original--due--date-of--each--return required-to-have-been-filed (Section 39c-4-of-the-Civil-Administrative Code--of--Illinois--Rev--Stat--1991--ch--127, par--39c-47-as-added by-P-A--87-12467--f20-IRES-2505/39c-47).

- b) Taxpayers must voluntarily come forward and disclose. In order for the statute of limitations to be limited to no more than 4 four years under Illinois law, a taxpayer must voluntarily come forward and disclose its liability to the Board of Appeals. A taxpayer has voluntarily come forward and disclosed its liability to the Board when it has done the following:

1) Taxpayer must file an Application application for voluntary disclosure.

A) The taxpayer Taxpayer must file an Application application for voluntary disclosure (Application) in a form prescribed by the Board (Form BOA-2). The Application must be filed prior to the date the Department of Revenue has initiated an audit or investigation of the taxpayer.

B) The Application is not accepted by the Board until it has been approved and signed by a Board Member member. The Board does not accept the Application until it has been approved and signed by a Board Member. A Board Member member may not sign the Application until the Department has notified the Board that the Department had not initiated an audit or investigation of taxpayer, as those terms are defined in subsection (c)(1) below, prior to the filing date of taxpayer's Application with the Board.

C) The filing date of taxpayer's Application with the Board is the date the Application is received by the Board. Once a Board Member member has signed the Application, the Board will furnish the taxpayer with a copy of the executed Application.

2) Taxpayer must file returns and pay liability.

A) Once the Application has been approved by a Board Member, taxpayer--has--received--a-copy-of-the-executed-Application--the taxpayer must file, with the Board, Illinois tax returns for the tax being disclosed for the last 4 four years with the Board. If the tax being disclosed is ROT (including Use Tax), a spreadsheet indicating, on a monthly basis, the tax base and liability due may be acceptable in lieu of the returns if they contain sufficient specificity upon which to make a decision. The taxpayer must and pay all tax, penalty and interest (except for those amounts for which taxpayer petitions is--petitioning the Board seeking relief) within 30 thirty days from the Board of Appeals Member's member's

DEPARTMENT OF REVENUE

NOTICE OF PROPOSED AMENDMENTS

Signature Date (Application Approval Date Signature-Date) on the BOA-2. The Board of Appeals Member's member's Application Approval Date Signature-Date is the date the Board Member member signs the BOA-2 Application.

B) Taxpayer's determination of its tax liability, including the methodology used by taxpayer, must be documented and in a manner reviewable by the Department. A taxpayer who maintains that it was not required to file returns and pay tax for the entire 4 four years shall file returns and pay tax for the period that it maintains it was required to do so under Illinois law. In addition, taxpayer will provide in its Petition or its BOA-2 Application petition to the Board its reasons why it maintains it does not owe tax for the entire voluntary disclosure period (immediately preceding 4 four years).

C) The Board will determine the number of years (up to the 4 four year maximum) taxpayer is subject to Illinois tax under voluntary disclosure. The Board will notify taxpayer of its decision.

D) Taxpayer will file returns and pay tax for the number of years (up to 4 four years maximum) the Board has determined taxpayer is subject to tax under voluntary disclosure. Taxpayer will file any additional returns and pay any additional liability owed within 60 days from the date of notification to the taxpayer. The date of notification is the date shown on the notification sent to the taxpayer by the Board.

3) Taxpayer may file a Petition (BOA-1) petition with tax returns. Taxpayers who, in addition to seeking the 4-year four-year statute of limitations, are requesting additional relief from the Board, must file a Petition petition within 30 days from the Signature Date in the manner prescribed by Section 210.101. Taxpayers shall file their Petition petition with the Board concurrently with their tax returns for the voluntary disclosure period at to the address designated as by the Board's headquarters, Room 7-339, Thompson Center, 100 W. Randolph Street, Chicago, Illinois 60601 Board.

c) Disqualification from voluntary disclosure. A taxpayer does not qualify for voluntary disclosure if:

1) The Department has initiated an audit or investigation. It is established that the Department had, prior to the date taxpayer filed its Application with the Board, initiated an audit or investigation of the taxpayer.

A) Initiated an audit. The Department has initiated an audit of the taxpayer if, at a minimum:

i) The Audit Bureau of the Department has contacted the taxpayer by telephone to schedule an appointment to audit taxpayer for the particular Illinois tax type

DEPARTMENT OF REVENUE

NOTICE OF PROPOSED AMENDMENTS

- being disclosed; or
- ii) The Audit Bureau of the Department has contacted the taxpayer in writing regarding a possible tax liability or a notice of intent to audit for the particular Illinois tax type being disclosed; or,
 - iii) The Department's Audit Bureau requested copies of the Illinois tax returns for the Illinois tax type being disclosed under the voluntary disclosure procedures and did so prior to the date the taxpayer filed the Application for voluntary disclosure with the Board of Appeals.

However, the issuance by the Department of a nexus letter, a nexus questionnaire or a taxpayer self-review letter from the Audit Bureau does not constitute the initiation of an audit for the purposes of this Section.

- B) Initiated an investigation. The Investigations and Prosecutions Bureau of the Department has initiated an investigation of a taxpayer if, at a minimum, the Department has opened a criminal investigation file on the taxpayer.
 - C) Partnerships. Once the Department has initiated an audit or investigation of a partnership or a general partner of the partnership, the Department is deemed to have initiated an audit or investigation of the partnership and all partners of that partnership with respect to the liability from such partnership for purposes of qualifying for voluntary disclosure.
- 2) Taxpayer does not file returns. Taxpayer does not file tax returns within thirty days from the Signature Date.
 - 3) Taxpayer does not pay tax liability. Taxpayer does not pay all tax, penalty and interest (except for those amounts for which taxpayer is seeking relief from the Board) within thirty days from the Signature Date.
 - 4) Taxpayer does not comply with Board Order. Taxpayer does not comply with the Board's Order regarding taxpayer's Petition seeking relief.
 - 5) Taxpayer does not begin prospective compliance. Taxpayer must begin prospective compliance with Illinois tax law as a part of voluntary disclosure. Taxpayer has begun prospective compliance when taxpayer has made a good faith effort to comply with Illinois tax law. This would include prospectively filing all returns that are due, paying the tax liability owed, registering with the Department and begin remitting all taxes collected.
 - 6) Taxpayer has not remitted all taxes collected for the Illinois tax type being disclosed as part of voluntary disclosure. Taxpayer must remit all taxes (and interest) previously collected for all periods by taxpayer for the Illinois tax type being disclosed as part of taxpayer's voluntary disclosure with the Department. This includes periods beyond the 4-year four-year

DEPARTMENT OF REVENUE

NOTICE OF PROPOSED AMENDMENTS

limitation for which the taxes were collected but not remitted. Failure to remit all taxes (and interest) previously collected for the Illinois tax type being disclosed will disqualify taxpayer from the relief provided under voluntary disclosure.

- 7) The taxpayer has previously registered and/or filed Illinois tax returns for the Illinois tax type being disclosed under voluntary disclosure and cannot show cause for previous failure to comply. In determining whether cause exists, the Board will consider whether there was failure to exercise ordinary business care and prudence, or an intent to avoid or evade the filing of tax returns or the payment of taxes for the tax type being disclosed.
- 8) The taxpayer's actions during any significant period prior to filing the Petition are inconsistent with a good faith belief that the taxpayer had no liability to pay or file a return for the Illinois tax type being disclosed. Examples of facts that are inconsistent with a good faith belief of no liability include, but are not limited to:
 - A) Example 1. Corporation A is a retailer whose only showroom is in State X. For more than one year prior to filing its Petition, Corporation A's bills to its Illinois customers included a charge for sales taxes, which Corporation A collected but did not report or pay over to any state. Corporation A's actions in collecting sales tax from Illinois customers and failing to pay the amounts collected to any state are inconsistent with a good faith belief that it had no liability to pay Retailers' Occupation Tax or Use Tax to Illinois.
 - B) Example 2. Corporation B manufactures tangible personal property at its plant in State Y, and delivers its products from that plant to its Illinois customers. State Y's income tax statutes contain a "throwback" rule identical to the rule contained in Section 304(a)(3)(B)(ii) of the Illinois Income Tax Act, under which a sale of tangible personal property delivered to an Illinois customer will be an Illinois sale only if Corporation B is subject to Illinois income tax. If Corporation B is not subject to Illinois income tax, the throwback rule provides that sales of products delivered from Corporation B's State Y plant to an Illinois customer will be treated as State Y sales. Prior to filing its Petition for voluntary disclosure of income taxes, Corporation B reported its sales to Illinois customers as Illinois sales on its State Y income tax returns. This filing position is inconsistent with a good faith belief that Corporation B was not subject to Illinois income tax.
 - C) Example 3. Over a period of several years prior to filing a voluntary disclosure Petition, Corporation C filed Illinois returns due for the type of tax for which it filed the

DEPARTMENT OF REVENUE

NOTICE OF PROPOSED AMENDMENTS

Petition. However, Corporation C ceased filing such returns and is unable to identify any material difference between its Illinois activities during the periods before and after it ceased filing, or any other event that could allow a reasonable person to conclude that its Illinois filing obligation ceased. Corporation C's filing practice is inconsistent with a good faith belief that it had no tax liability. Examples of events that might justify a conclusion that Corporation C's obligations to file Illinois returns had ceased include the closing of its only facility in Illinois or an attempt to restructure its Illinois activities to bring them within the scope of Public Law 86-272.

- d) Extensions. Taxpayer may request in writing, before the expiration of the 30-day period, an automatic 60-day extension in order to file its Petition or tax returns or make payment. Taxpayer may request in writing, before the expiration of any extension, a further extension in order to file its Petition or tax returns or make payment. The Board, in its discretion, may grant an additional extension beyond the first automatic 60-day extension where taxpayer's facts warrant a further extension of time in order to comply with the Board's filing requirements.

- e) The Department retains the right to audit taxpayer and verify accurate reporting. Taxpayer has made a good faith effort to accurately report its tax liability under voluntary disclosure when taxpayer has made a reasonable and honest effort to calculate and report its correct tax liability due and does not intentionally or purposefully misrepresent its tax liability to the Department. The Department shall retain the right to audit taxpayer for all open years of the voluntary disclosure period and assess all tax, penalty and interest that is owed by taxpayer. Taxpayer will not qualify for the relief provided under voluntary disclosure when the Department finds that taxpayer understated its final tax liability to the Board by 10% or more and taxpayer cannot demonstrate to the Department that a good faith effort was made to accurately report its liability for the voluntary disclosure period.

(Source: Amended at 26 Ill. Reg. _____, effective _____)

Section 210.130 Departmental Controversies

- a) The Board may review other departmental controversies only:
- 1) after a special finding concurred in by the entire Board that action by the Board is the most efficient and expeditious manner of resolving the controversy; or
 - 2) on the order of the Director of Revenue.
- b) Departmental controversies include cases that are currently pending in

DEPARTMENT OF REVENUE

NOTICE OF PROPOSED AMENDMENTS

the Department's Administrative Hearings Division or in the courts where both the Department's General Counsel and the taxpayer request that the Board take special jurisdiction of the case.

- c) The Board may consider the risks of litigation, doubt as to liability, doubt as to collectibility, general fairness and equity, and other factors concerned with fairness and enforceability of the tax laws and regulations, in attempting to resolve departmental controversies under this Section.
- d) The Board may issue general orders signed by all the Board Members and the Director to resolve cases or Petitions involving the same issue and the same tax that are more expeditiously handled as a group or class than on an individual case by case determination basis.

(Source: Amended at 26 Ill. Reg. _____, effective _____)

Section 210.135 Decisions of the Board

- a) *Decisions of the Board shall not take effect unless and until approved by the director.* In giving such approval, the Director shall consider whether the Petition was timely filed and whether the grounds stated by the taxpayer justify such relief as may have been recommended by the Board.

- b) Decisions made by the Board and approved by the Director are not subject to the provisions of the Administrative Review Law [735 ILCS 5/Art. III]. ~~4441-Rev-Stat-1987-CH-1187-PAR-3-10-ET-SEQ-7~~

- c) No Petitioner shall file another Petition for relief on the same tax assessment issue for which a denial was issued until at least 2 years has elapsed from the date of the Board's Final Order in the first Petition case, except if the Petitioner had developed a terminal illness or a substantial deleterious change in physical or financial condition.

- d) No request for reconsideration of a Board's Order shall be accepted or considered. However, the Chairman may reopen a case if new relevant facts come to light that were not ascertainable at the time the Petition was filed originally, or there is a substantial change in the Petitioner's financial condition. A Petitioner may submit a letter to the Chairman requesting the case be reopened for these reasons only. A letter may be accepted by the Board from the Petitioner to correct spelling, assessment numbers, tax amounts, and other errors that do not change the substance of the Order.

- e) On behalf of the Board, the Chairman will vacate Orders that are not complied with by the Petitioners. The Chairman may reinstate a vacated Order to allow a Petitioner to pay in accordance with that Order. The Chairman may allow a payment plan if the Petitioner has on file financial statements that the Board would have allowed a payment plan in the original Order if the Petitioner had requested one in his/her Petition.

DEPARTMENT OF REVENUE

NOTICE OF PROPOSED AMENDMENTS

(Source: Amended at 26 Ill. Reg. _____, effective _____)

Section 210.140 Confidentiality

- a) All documents contained in a Board file shall be confidential and non-disclosable to persons outside the Department, except as otherwise allowed by statute.
- b) Petitioner or his or her representative may obtain copies of all Petitions and supporting documents submitted by that taxpayer with a written request sent to the Board headquarters.

(Source: Added at 26 Ill. Reg. _____, effective _____)

DEPARTMENT OF REVENUE

NOTICE OF PROPOSED AMENDMENTS

1) Heading of the Part: Retailers' Occupation Tax

2) Code Citation: 86 Ill. Adm. Code 130

<u>Section Numbers:</u>	<u>Proposed Action:</u>
130.120	Amendment
130.325	Amendment
130.330	Amendment
130.332	Amendment
130.415	Amendment
130.535	Amendment
130.1701	Amendment
130.2004	Amendment
130.2135	Amendment

4) Statutory Authority: 35 ILCS 120 and 20 ILCS 2505-25

5) A Complete Description of the Subjects and Issues Involved: This rulemaking amends Section 130.120 of the Department's regulations to include recent statutory changes. Amendments have been made to reflect the change in the definition of a bulk vending machine (P.A. 92-213); to reflect the provisions of P.A. 92-35, which requires that cultural arts organizations now be organized and operated primarily for the presentation or support of cultural arts or cultural programs, activities or services and that the organization receive an exemption number in order to make tax-free purchases; and to reflect the provisions of P.A. 92-484, which provides that the manufacturing machinery and equipment exemption includes chemicals or chemicals acting as catalysts under certain conditions and computers used primarily in a CAD/CAM system. Section 130.120 has also been amended to include the exemption for sales of food, medicine and medical appliances purchased for use by a person receiving medical assistance under Article 5 of the Public Aid Code who resides in a licensed long-term care facility (also P.A. 92-484); and the expanded exemption now available for automatic vending machines (P.A. 92-337). The reinstatement of the sunsetted exemption for lessors who lease specific types of equipment to exempt hospitals and to government bodies (P.A. 92-227) is also included in the amendment of Section 130.120. In conjunction with the amendment of Section 130.120, specific Sections of the regulations governing more in-depth explanations of these exemptions have been amended. For instance, Section 130.330 has been amended to reflect the inclusion of chemicals and the expanded CAD/CAM provisions in the manufacturing machinery and equipment exemption. Section 130.325, governing the graphic arts exemption, has been amended to reflect a similar inclusion of chemicals in the exemption. Section 130.332 has been amended to explain the expanded exemption for automatic vending machines, and Section 130.2004 has been amended to explain the changes made to the exemption for certain not-for-profit cultural arts organizations. Section 130.2135 has been amended to clarify the exemption for bulk vending

DEPARTMENT OF REVENUE
NOTICE OF PROPOSED AMENDMENTS

13) Regulatory Agenda on which this rulemaking was summarized: July 2001
The full text of the Proposed Amendments begins on the next page:

DEPARTMENT OF REVENUE
NOTICE OF PROPOSED AMENDMENTS

machines. The regulation governing bulk sales has been amended to provide examples of situations in which bulk sales reporting is and is not required.

6) Will these proposed amendments replace any emergency amendments currently in effect? No

7) Does this rulemaking contain an automatic repeal date? No

8) Do these proposed amendments contain incorporations by reference? No

9) Are there any other proposed amendments pending on this Part? Yes

Section Numbers	Proposed Action	IL Register Citation
130.401	Amendment	12/29/00, 24 Ill. Reg. 19030
130.2013	New Section	9/14/01, 25 Ill. Reg. 11759
130.445	Amendment	9/21/01, 25 Ill. Reg. 12065
130.2011	Amendment	9/28/01, 25 Ill. Reg. 12399
130.2012	Amendment	9/28/01, 25 Ill. Reg. 12399

10) Statement of Statewide Policy Objectives: This rulemaking does not create a State mandate, nor does it modify any existing State mandates.

11) Time, Place and Manner in which interested persons may comment on this proposed rulemaking: Persons who wish to submit comments on this proposed rulemaking may submit them in writing by no later than 45 days after publication of this notice to:

Jerilyn Gorden
Senior Counsel, Sales & Excise Taxes
Illinois Department of Revenue
Legal Services Office
101 West Jefferson
Springfield, Illinois 62794
(217) 782-6996

12) Initial Regulatory Flexibility Analysis:

A) Types of small businesses, small municipalities and not-for-profit corporations affected: Generally, retailers who sell tangible personal property; also, vending machines owners; not-for-profit cultural arts organizations; manufacturers; printers.

B) Reporting, bookkeeping or other procedures required for compliance: General bookkeeping.

C) Types of professional skills necessary for compliance: Bookkeeping; accounting.

DEPARTMENT OF REVENUE

NOTICE OF PROPOSED AMENDMENTS

TITLE 86: REVENUE

CHAPTER I: DEPARTMENT OF REVENUE

PART 130

RETAILERS' OCCUPATION TAX

SUBPART A: NATURE OF TAX

Section	
130.101	Character and Rate of Tax
130.105	Responsibility of Trustees, Receivers, Executors or Administrators
130.110	Occasional Sales
130.111	Sale of Used Motor Vehicles by Leasing or Rental Business
130.115	Habitual Sales
130.120	Nontaxable Transactions

SUBPART B: SALE AT RETAIL

Section	
130.201	The Test of a Sale at Retail
130.205	Sales for Transfer Incident to Service
130.210	Sales of Tangible Personal Property to Purchasers for Resale
130.215	Further Illustrations of Sales for Use or Consumption Versus Sales for Resale
130.220	Sales to Lessors of Tangible Personal Property
130.225	Drop Shipments

SUBPART C: CERTAIN STATUTORY EXEMPTIONS

Section	
130.305	Farm Machinery and Equipment
130.310	Food, Drugs, Medicines and Medical Appliances
130.315	Fuel Sold for Use in Vessels on Rivers Bordering Illinois
130.320	Gasohol
130.321	Fuel Used by Air Common Carriers in International Flights
130.325	Graphic Arts Machinery and Equipment Exemption
130.330	Manufacturing Machinery and Equipment
130.331	Manufacturer's Purchase Credit
130.332	Automatic Vending Machines that Dispense Hot Food or Beverages
130.335	Pollution Control Facilities
130.340	Rolling Stock
130.345	Oil Field Exploration, Drilling and Production Equipment
130.350	Coal Exploration, Mining, Off Highway Hauling, Processing, Maintenance and Reclamation Equipment
130.351	Aggregate Manufacturing

SUBPART D: GROSS RECEIPTS

Section

DEPARTMENT OF REVENUE

NOTICE OF PROPOSED AMENDMENTS

Section	
130.401	Meaning of Gross Receipts
130.405	How to Avoid Paying Tax on State or Local Tax Passed on to the Purchaser
130.410	Cost of Doing Business Not Deductible
130.415	Transportation and Delivery Charges
130.420	Finance or Interest Charges--Penalties--Discounts
130.425	Traded-In Property
130.430	Deposit or Prepayment on Purchase Price
130.435	State and Local Taxes Other Than Retailers' Occupation Tax
130.440	Penalties
130.445	Federal Taxes
130.450	Installation, Alteration and Special Service Charges
130.455	Motor Vehicle Leasing and Trade-In Allowances

SUBPART E: RETURNS

Section	
130.501	Monthly Tax Returns--When Due--Contents
130.502	Quarterly Tax Returns
130.505	Returns and How to Prepare
130.510	Annual Tax Returns
130.515	First Returns
130.520	Final Returns When Business is Discontinued
130.525	Who May Sign Returns
130.530	Returns Covering More Than One Location Under Same Registration--Separate Returns for Separately Registered Locations
130.535	Payment of the Tax, Including Quarter Monthly Payments in Certain Instances
130.540	Returns on a Transaction by Transaction Basis
130.545	Registrants Must File a Return for Every Return Period
130.550	Filing of Returns for Retailers by Suppliers Under Certain Circumstances
130.551	Prepayment of Retailers' Occupation Tax on Motor Fuel
130.555	Vending Machine Information Returns
130.560	Verification of Returns

SUBPART F: INTERSTATE COMMERCE

Section	
130.601	Preliminary Comments
130.605	Sales of Property Originating in Illinois
130.610	Sales of Property Originating in Other States

SUBPART G: CERTIFICATE OF REGISTRATION

Section	
130.701	General Information on Obtaining a Certificate of Registration
130.705	Procedure in Disputed Cases Involving Financial Responsibility

DEPARTMENT OF REVENUE

NOTICE OF PROPOSED AMENDMENTS

Requirements

130.710 Procedure When Security Must be Forfeited
130.715 Sub-Certificates of Registration
130.720 Separate Registrations for Different Places of Business of Same Taxpayer Under Some Circumstances
130.725 Display
130.730 Replacement of Certificate
130.735 Certificate Not Transferable
130.740 Certificate Required For Mobile Vending Units
130.745 Revocation of Certificate

SUBPART H: BOOKS AND RECORDS

Section
130.801
130.805
130.810
130.815
130.820
130.825

General Requirements
What Records Constitute Minimum Requirement
Records Required to Support Deductions
Preservation and Retention of Records
Preservation of Books During Pendency of Assessment Proceedings
Department Authorization to Destroy Records Sooner Than Would Otherwise be Permissible

SUBPART I: PENALTIES AND INTEREST

Section
130.901
130.905
130.910

Civil Penalties
Interest
Criminal Penalties

SUBPART J: BINDING OPINIONS

Section
130.1001

When Opinions from the Department are Binding

SUBPART K: SELLERS LOCATED ON, OR SHIPPING TO, FEDERAL AREAS

Section
130.1101
130.1105
130.1110

Definition of Federal Area
When Deliveries on Federal Areas Are Taxable
No Distinction Between Deliveries on Federal Areas and Illinois Deliveries Outside Federal Areas

SUBPART L: TIMELY MAILING TREATED AS TIMELY FILING AND PAYING

Section
130.1201
130.1205

General Information
Due Date that Falls on Saturday, Sunday or a Holiday

DEPARTMENT OF REVENUE

NOTICE OF PROPOSED AMENDMENTS

SUBPART M: LEASED PORTIONS OF LESSOR'S BUSINESS SPACE

Section
130.1301
130.1305
130.1310

When Lessee of Premises Must File Return for Leased Department
When Lessor of Premises Should File Return for Business Operated on Leased Premises
Meaning of "Lessor" and "Lessee" in this Regulation

SUBPART N: SALES FOR RESALE

Section
130.1401
130.1405
130.1410
130.1415
130.1420

Seller's Responsibility to Determine the Character of the Sale at the Time of the Sale
Seller's Responsibility to Obtain Certificates of Resale and Requirements for Certificates of Resale (Repealed)
Requirements for Certificates of Resale (Repealed)
Resale Number--When Required and How Obtained
Blanket Certificate of Resale (Repealed)

SUBPART O: CLAIMS TO RECOVER ERRONEOUSLY PAID TAX

Section
130.1501
130.1505
130.1510
130.1515

Claims for Credit--Limitations--Procedure
Disposition of Credit Memoranda by Holders Thereof
Refunds
Interest

SUBPART P: PROCEDURE TO BE FOLLOWED UPON
SELLING OUT OR DISCONTINUING BUSINESS

Section
130.1601
130.1605
130.1610

When Returns are Required After a Business is Discontinued
When Returns Are Not Required After Discontinuation of a Business
Cross Reference to Bulk Sales Regulation

SUBPART Q: NOTICE OF SALES OF GOODS IN BULK

Section
130.1701

Bulk Sales: Notices of Sales of Business Assets

SUBPART R: POWER OF ATTORNEY

Section
130.1801
130.1805
130.1810

When Powers of Attorney May be Given
Filing of Power of Attorney With Department
Filing of Papers by Agent Under Power of Attorney

SUBPART S: SPECIFIC APPLICATIONS

DEPARTMENT OF REVENUE

NOTICE OF PROPOSED AMENDMENTS

Section	
130.1901	Addition Agents to Plating Baths
130.1905	Agricultural Producers
130.1910	Antiques, Curios, Art Work, Collectors' Coins, Collectors' Postage Stamps and Like Articles
130.1915	Auctioneers and Agents
130.1920	Barbers and Beauty Shop Operators
130.1925	Blacksmiths
130.1930	Chiropodists, Osteopaths and Chiropractors
130.1935	Computer Software
130.1940	Construction Contractors and Real Estate Developers
130.1945	Co-operative Associations
130.1950	Dentists
130.1951	Enterprise Zones
130.1952	Sales of Building Materials to a High Impact Business
130.1955	Farm Chemicals
130.1960	Finance Companies and Other Lending Agencies -- Installment Contracts-- Bad Debts
130.1965	Florists and Nurserymen
130.1970	Hatcheries
130.1971	Sellers of Pets and the Like
130.1975	Operators of Games of Chance and Their Suppliers
130.1980	Optometrists and Opticians
130.1985	Pawnbrokers
130.1990	Peddlers, Hawkers and Itinerant Vendors
130.1995	Personalizing Tangible Personal Property
130.2000	Persons Engaged in the Printing, Graphic Arts or Related Occupations, and Their Suppliers
130.2004	Sales to Nonprofit Arts or Cultural Organizations
130.2005	Persons Engaged in Nonprofit Service Enterprises and in Similar Enterprises Operated As Businesses, and Suppliers of Such Persons
130.2006	Sales by Teacher-Sponsored Student Organizations
130.2007	Exemption Identification Numbers
130.2008	Sales by Nonprofit Service Enterprises
130.2009	Personal Property Purchased Through Certain Fundraising Events for the Benefit of Certain Schools
130.2010	Persons Who Rent or Lease the Use of Tangible Personal Property to Others
130.2011	Sales to Persons Who Lease Tangible Personal Property to Exempt Hospitals
130.2012	Sales to Persons Who Lease Tangible Personal Property to Governmental Bodies
130.2015	Persons Who Repair or Otherwise Service Tangible Personal Property
130.2020	Physicians and Surgeons
130.2025	Picture-Framers
130.2030	Public Amusement Places
130.2035	Registered Pharmacists and Druggists
130.2040	Retailers of Clothing

DEPARTMENT OF REVENUE

NOTICE OF PROPOSED AMENDMENTS

130.2045	Retailers on Premises of the Illinois State Fair, County Fairs, Art Shows, Flea Markets and the Like
130.2050	Sales and Gifts By Employers to Employees
130.2055	Sales by Governmental Bodies
130.2060	Sales of Alcoholic Beverages, Motor Fuel and Tobacco Products
130.2065	Sales of Automobiles for Use In Demonstration (Repealed)
130.2070	Sales of Containers, Wrapping and Packing Materials and Related Products
130.2075	Sales To Construction Contractors, Real Estate Developers and Speculative Builders
130.2076	Sales to Purchasers Performing Contracts with Governmental Bodies
130.2080	Sales to Governmental Bodies, Foreign Diplomats and Consular Personnel
130.2085	Sales to or by Banks, Savings and Loan Associations and Credit Unions
130.2090	Sales to Railroad Companies
130.2095	Sellers of Gasohol, Coal, Coke, Fuel Oil and Other Combustibles
130.2100	Sellers of Feeds and Breeding Livestock
130.2105	Sellers of Newspapers, Magazines, Books, Sheet Music and Recordings, and Their Suppliers; Transfer of Data Downloaded Electronically
130.2110	Sellers of Seeds and Fertilizer
130.2115	Sellers of Machinery, Tools and Special Order Items
130.2120	Suppliers of Persons Engaged in Service Occupations and Professions
130.2125	Trading Stamps and Discount Coupons
130.2130	Undertakers and Funeral Directors
130.2135	Vending Machines
130.2140	Vendors of Curtains, Slip Covers, Floor Covering and Other Similar Items Made to Order
130.2145	Vendors of Meals
130.2150	Vendors of Memorial Stones and Monuments
130.2155	Vendors of Signs
130.2156	Vendors of Steam
130.2160	Vendors of Tangible Personal Property Employed for Premiums, Advertising, Prizes, Etc.
130.2165	Veterinarians
130.2170	Warehousemen

ILLUSTRATION A Examples of Tax Exemption Cards

AUTHORITY: Implementing the Illinois Retailers' Occupation Tax Act [35 ILCS 120] and authorized by Section 2505-25 of the Civil Administrative Code of Illinois [20 ILCS 2505/2505-25].

SOURCE: Adopted July 1, 1933; amended at 2 Ill. Reg. 50, p. 71, effective December 10, 1978; amended at 3 Ill. Reg. 12, p. 4, effective March 19, 1979; amended at 3 Ill. Reg. 13, pp. 93 and 95, effective March 25, 1979; amended at 3 Ill. Reg. 23, p. 164, effective June 3, 1979; amended at 3 Ill. Reg. 25, p. 229, effective June 17, 1979; amended at 3 Ill. Reg. 44, p. 193, effective

DEPARTMENT OF REVENUE
NOTICE OF PROPOSED AMENDMENTS

amended at 24 Ill. Reg. 18376, effective December 1, 2000; amended at 25 Ill. Reg. 941, effective January 8, 2001; emergency amendment at 25 Ill. Reg. 1792, effective January 16, 2001, for a maximum of 150 days; amended at 25 Ill. Reg. 4674, effective March 15, 2001; amended at 25 Ill. Reg. 4950, effective March 19, 2001; amended at 25 Ill. Reg. 5398, effective April 2, 2001; amended at 25 Ill. Reg. 6515, effective May 3, 2001; amended at 25 Ill. Reg. 6713, effective May 9, 2001; amended at 25 Ill. Reg. 7264, effective May 25, 2001; amended at 25 Ill. Reg. 10917, effective August 13, 2001; amended at 25 Ill. Reg. 12841, effective October 1, 2001; amended at 26 Ill. Reg. _____, effective _____.

SUBPART A: NATURE OF TAX

Section 130.120 Nontaxable Transactions

The tax does not apply to receipts from sales:

- a) of intangible personal property, such as shares of stocks, bonds, evidences of interest in property, corporate or other franchises and evidences of debt;
- b) of real property, such as lands and buildings that are permanently attached to the land;
- c) of tangible personal property for purposes of resale in any form as tangible personal property, provided that the purchaser (except in the case of an out-of-State purchaser who will always resell and deliver the property to his customers outside Illinois) has an active registration number or active resale number from the Department and gives such number to the vendor in connection with certifying to the vendor that the sale to such purchaser is nontaxable on the ground of being a sale for resale (see Subparts B and N of this Part);
- d) of personal services, where rendered as such (see various rules relating to particular service occupations); however, for information concerning the tax on persons engaged in the business of making sales of service, see the Regulations pertaining to the Service Occupation Tax Act (86 Ill. Adm. Code 140);
- e) which are within the protection of the Commerce Clause of the Constitution of the United States (see Subpart F of this Part);
- f) which are isolated or occasional (see Section 130.110 of this Subpart);
- g) of newspapers and magazines (see Section 130.2105 of this Part);
- h) which are made to any corporation, society, association, foundation or institution organized and operated exclusively for charitable, religious or educational purposes, or any not-for-profit corporation, society, association, foundation, institution or organization which has no compensated officers or employees and which is organized and operated primarily for the recreation of persons 55 years of age or older. A limited liability company may qualify for the exemption under this subsection only if the limited liability company is organized and operated exclusively for educational purposes (see Section 130.2005

DEPARTMENT OF REVENUE
NOTICE OF PROPOSED AMENDMENTS

October 19, 1979; amended at 3 Ill. Reg. 46, p. 52, effective November 2, 1979; amended at 4 Ill. Reg. 24, pp. 520, 539, 564 and 571, effective June 1, 1980; amended at 5 Ill. Reg. 818, effective January 2, 1981; amended at 5 Ill. Reg. 3014, effective March 11, 1981; amended at 5 Ill. Reg. 12782, effective November 2, 1981; amended at 6 Ill. Reg. 2860, effective March 3, 1982; amended at 6 Ill. Reg. 6780, effective May 24, 1982; codified at 6 Ill. Reg. 8229; recodified at 6 Ill. Reg. 8999; amended at 6 Ill. Reg. 15225, effective December 3, 1982; amended at 7 Ill. Reg. 7990, effective June 15, 1983; amended at 8 Ill. Reg. 5319, effective April 11, 1984; amended at 8 Ill. Reg. 19062, effective September 26, 1984; amended at 10 Ill. Reg. 1937, effective January 10, 1986; amended at 10 Ill. Reg. 12067, effective July 1, 1986; amended at 10 Ill. Reg. 19538, effective November 5, 1986; amended at 10 Ill. Reg. 19772, effective November 5, 1986; amended at 11 Ill. Reg. 4325, effective March 2, 1987; amended at 11 Ill. Reg. 6252, effective March 20, 1987; amended at 11 Ill. Reg. 18284, effective October 27, 1987; amended at 11 Ill. Reg. 18767, effective October 28, 1987; amended at 11 Ill. Reg. 19138, effective October 29, 1987; amended at 11 Ill. Reg. 19696, effective November 23, 1987; amended at 12 Ill. Reg. 5652, effective March 15, 1988; emergency amendment at 12 Ill. Reg. 14401, effective September 1, 1988, for a maximum of 150 days, modified in response to an objection of the Joint Committee on Administrative Rules at 12 Ill. Reg. 19531, effective November 4, 1988, not to exceed the 150 day time limit of the original rulemaking; emergency expired January 29, 1989; amended at 13 Ill. Reg. 11824, effective June 29, 1989; amended at 14 Ill. Reg. 241, effective December 21, 1989; amended at 14 Ill. Reg. 872, effective January 1, 1990; amended at 14 Ill. Reg. 15463, effective September 10, 1990; amended at 14 Ill. Reg. 16028, effective September 18, 1990; amended at 15 Ill. Reg. 6621, effective April 17, 1991; amended at 15 Ill. Reg. 13542, effective August 30, 1991; amended at 15 Ill. Reg. 15757, effective October 15, 1991; amended at 16 Ill. Reg. 1642, effective January 13, 1992; amended at 17 Ill. Reg. 860, effective January 11, 1993; amended at 17 Ill. Reg. 18142, effective October 4, 1993; amended at 17 Ill. Reg. 19651, effective November 2, 1993; amended at 18 Ill. Reg. 1537, effective January 13, 1994; amended at 18 Ill. Reg. 16866, effective November 7, 1994; amended at 19 Ill. Reg. 13446, effective September 12, 1995; amended at 19 Ill. Reg. 13568, effective September 11, 1995; amended at 19 Ill. Reg. 13968, effective September 18, 1995; amended at 20 Ill. Reg. 4428, effective March 4, 1996; amended at 20 Ill. Reg. 5366, effective March 26, 1996; amended at 20 Ill. Reg. 6991, effective May 7, 1996; amended at 20 Ill. Reg. 9116, effective July 2, 1996; amended at 20 Ill. Reg. 15753, effective December 2, 1996; expedited correction at 21 Ill. Reg. 4052, effective December 2, 1996; amended at 20 Ill. Reg. 16200, effective December 16, 1996; amended at 21 Ill. Reg. 12211, effective August 26, 1997; amended at 22 Ill. Reg. 3097, effective January 27, 1998; amended at 22 Ill. Reg. 11874, effective June 29, 1998; amended at 22 Ill. Reg. 19919, effective October 28, 1998; amended at 22 Ill. Reg. 21642, effective November 25, 1998; amended at 23 Ill. Reg. 9526, effective July 29, 1999; amended at 23 Ill. Reg. 9898, effective August 9, 1999; amended at 24 Ill. Reg. 10713, effective July 7, 2000; emergency amendment at 24 Ill. Reg. 11313, effective July 12, 2000, for a maximum of 150 days; amended at 24 Ill. Reg. 15104, effective October 2, 2000;

DEPARTMENT OF REVENUE

NOTICE OF PROPOSED AMENDMENTS

- of this Part);
- i) which are made to any governmental body (see Section 130.2080 of this Part);
- j) of pollution control facilities (see Section 130.335 of this Part);
- k) of fuel consumed or used in the operation of ships, barges or vessels that which are used primarily in or for the transportation of property or the conveyance of persons for hire on rivers bordering on this State if the such fuel is delivered by the seller to the purchaser's barge, ship or vessel while it is afloat upon that such bordering river [35 ILCS 120/2-5(24)] (see Section 130.315 of this Part);
- l) of tangible personal property to interstate carriers for hire for use as rolling stock moving in interstate commerce (see Section 130.340 of this Part);
- m) of a motor vehicle in this State to a nonresident even though such motor vehicle is delivered to such nonresident in this State, if such motor vehicle is not to be titled in this State, and if a driveway decal permit is issued to such motor vehicle as provided in Section 3-603 of the Illinois Vehicle Code [625 ILCS 5/3-603], or if the nonresident purchaser has vehicle registration plates to transfer to the motor vehicle upon returning to his home state;
- n) until January 1, 2001, of merchandise in bulk when sold from a vending machine for 1¢ on and after January 1, 2001, the exemption applies to merchandise in bulk when sold from a vending machine for \$0.50 or less (see 35 ILCS 120/1 and Section 130.2135 of this Part) ~~(see Section 130-2135-of-this-Part);~~
- o) of food and beverages by a person who is the recipient of a grant or contract under Title VII of the Older Americans Act of 1965 (Title 42, USC 3021) and serves meals to participants in the Federal Nutrition Program for the Elderly in return for contributions established in amount by the individual participant pursuant to a schedule of suggested fees as provided for in the Federal Act;
- p) of farm chemicals (see Section 130.1955 of this Part);
- q) of manufacturing machinery and equipment that qualifies for exemption under provisions of Section 130.330 of this Part;
- r) of services included in gross receipts for purposes of the Retailers' Occupation Tax and which are designated mandatory service charges by vendors of meals to the extent that the proceeds of the service charge are in fact turned over to the employees who would normally have received tips had the service charge policy not been introduced. Service charges which are used to fund or pay wages, labor costs, employee benefits or employer costs of doing business are taxable gross receipts;
- s) of any petroleum product, if the seller is prohibited by federal law from charging tax to the purchaser [35 ILCS 120/2-5(16)].
- 1) For example, federal law prohibits sellers from charging tax to Amtrak when it purchases petroleum products. However, federal law does not relieve the seller of Retailers' Occupation Tax liability in these transactions. For that reason, the exemption

DEPARTMENT OF REVENUE

NOTICE OF PROPOSED AMENDMENTS

- set out in this subsection is necessary to relieve the seller of Retailers' Occupation Tax liability when making sales of petroleum products to Amtrak.
- 2) The nontaxable transaction set out above is also applicable to local Retailers' Occupation Taxes imposed by municipalities, counties, the Regional Transportation Authority and Metro East Mass Transit District;
- t) of farm machinery and equipment, both new and used including that manufactured on special order, certified by the purchaser to be used primarily for production agriculture, or state or federal agricultural programs, including individual replacement parts for the machinery and equipment and including machinery and equipment purchased for lease [35 ILCS 120/2-5(2)] (see Section 130.305);
- u) of distillation machinery and equipment, sold as a unit or kit, certified by the user to be used only for the production of ethyl alcohol that will be used for consumption as a motor fuel or as a component of motor fuel for personal use of the user and not subject to sale or resale [35 ILCS 120/2-5(3)];
- v) of graphic arts machinery and equipment, including repair and replacement parts [35 ILCS 120/2-5(4)] (see Section 130.325);
- w) a motor vehicle of the first division, a motor vehicle of the second division that is a self-contained motor vehicle designed or permanently converted to provide living quarters for recreational, camping, or travel use, with direct walk through access to the living quarters from the driver's seat, or a motor vehicle of the second division that is of the van configuration designed for the transportation of not less than 7 nor more than 16 passengers, as defined in Section 1-146 of the Illinois Vehicle Code that is used for automobile renting as defined in the Automobile Renting Occupation and Use Tax Act [35 ILCS 120/2-5(5)];
- x) of personal property sold by a teacher-sponsored student organization affiliated with an elementary or secondary school located in Illinois [35 ILCS 120/2-5(6)] (see Section 130.2006);
- y) of that portion of the selling price of a passenger car, the sale of which is subject to the replacement vehicle tax of the Illinois Vehicle Code [625 ILCS 5/3-2001] [35 ILCS 120/2-5(7)];
- z) of personal property sold to an Illinois county fair association for use in conducting, operating or promoting the county fair [35 ILCS 120/2-5(8)];
- aa) of personal property sold to any not-for-profit arts or cultural organization that establishes that it has received an exemption under Section 501(c)(3) of the Internal Revenue Code (26 USCA 501) and that is organized and operated for the presentation or support of arts or cultural programming, activities, or services. On and after July 1, 2001, the qualifying organizations listed in this subsection (a)(a) must also be organized and operated primarily for the presentation or support of arts or cultural programming, activities, or services. These organizations include, but are not limited to, music and

DEPARTMENT OF REVENUE

NOTICE OF PROPOSED AMENDMENTS

dramatic arts organizations such as symphony orchestras and theatrical groups, arts and cultural service organizations, local arts councils, visual arts organizations, and media arts organizations [35 ILCS 120/2-5(9)] [see Section 130.2004 of this Part];

bb) of personal property sold by a corporation, society, association, foundation, institution or organization that is organized and operated as a not-for-profit service enterprise for the benefit of persons 65 years of age or older if the personal property was not purchased by the enterprise for the purpose of resale by the enterprise [35 ILCS 120/2-5(10)] (see Section 130.2008);

cc) of legal tender, currency, medallions, or gold or silver coinage issued by the State of Illinois, the government of the United States of America or the government of any foreign country and bullion [35 ILCS 120/2-5(11)], unless such items are transferred as jewelry and therefore subject to tax;

dd) of oil field exploration, drilling and production equipment [35 ILCS 120/2-5(19)] (see Section 130.345);

ee) of photoprocessing machinery and equipment, including repair and replacement parts [35 ILCS 120/2-5(20)] (see Section 130.2000);

ff) of coal exploration, mining, off highway hauling, processing, maintenance and reclamation equipment, including replacement parts and equipment [35 ILCS 120/2-5(21)] (see Section 130.350);

gg) of fuel and petroleum products sold to or used by an air common carrier, certified by the carrier to be used for consumption, shipment or storage in the conduct of its business as an air common carrier, for a flight destined for or returning from a location or locations outside the United States without regard to previous or subsequent domestic stopovers [35 ILCS 120/2-5(22)] (see Section 130.321);

hh) of semen used for artificial insemination of livestock for direct agricultural production. [35 ILCS 120/2-5(26)] Exemption certifications must be executed by the purchaser. The certificate must include the seller's name and address, the purchaser's name and address, the purchaser's registration number with the Department, the purchaser's signature and date of signing and a statement that the semen purchased will be used for artificial insemination of livestock for direct agricultural production. The certificates shall be retained by the retailer and shall be made available to the Department for inspection or audit;

ii) beginning with taxable years ending on or after December 31, 1995 and ending with taxable years ending on or before December 31, 2004, of personal property that is donated for disaster relief to be used in a State or federally declared disaster area in Illinois or bordering Illinois by a manufacturer or retailer that is registered in this State to a corporation, society, association, foundation, or institution that has been issued a sales tax exemption identification number by the Department that assists victims of the disaster who reside within the declared disaster area. [35 ILCS 120/2-5(30)] Exemption certifications must be executed by the purchaser. The

DEPARTMENT OF REVENUE

NOTICE OF PROPOSED AMENDMENTS

certificate must include the seller's name and address, the purchaser's name and address, the purchaser's registration number with the Department, if applicable, the purchaser's signature and the date of signing, a description of the items being purchased for donation, a statement that the property purchased will be donated for disaster relief to be used in a State or federally declared disaster area in Illinois or bordering Illinois to a corporation, society, association, foundation, or institution that has been issued a sales tax exemption identification number by the Department that assists victims of the disaster who reside within the declared disaster area, and that entity's sales tax exemption identification number. The certificates shall be retained by the retailer and shall be made available to the Department for inspection or audit;

jj) beginning with taxable years ending on or after December 31, 1995 and ending with taxable years ending on or before December 31, 2004, of personal property that is used in the performance of infrastructure repairs in this State, including but not limited to municipal roads and streets, access roads, bridges, sidewalks, waste disposal systems, water and sewer line extensions, water distribution and purification facilities, storm water drainage and retention facilities, and sewage treatment facilities, resulting from a State or federally declared disaster in Illinois or bordering Illinois when such repairs are initiated on facilities located in the declared disaster area within 6 months after the disaster. [35 ILCS 120/2-5(31)] Exemption certifications must be executed by the purchaser. The certificate must include the seller's name and address, the purchaser's name and address, the purchaser's registration number with the Department, if applicable, the purchaser's signature and date of signing, a description of the items being purchased, and a statement that the property purchased is for use in the performance of infrastructure repairs initiated on facilities located in the declared disaster area within six months after the disaster in this State resulting from a State or federally declared disaster area in Illinois or bordering Illinois. The certificates shall be retained by the retailer and shall be made available to the Department for inspection or audit;

kk) of a transaction in which the purchase order is received by a florist who is located outside Illinois, but who has a florist located in Illinois deliver the property to the purchaser or the purchaser's donee in Illinois [35 ILCS 120/2-5(23)];

ll) until June 1, 2000, of horses, or interests in horses, registered with and meeting the requirements of any of the Arabian Horse Club Registry of America, Appaloosa Horse Club, American Quarter Horse Association, United States Trotting Association, or Jockey Club, as appropriate, used for purposes of breeding or racing for prizes [35 ILCS 120/2-5(27)];

mm) effective January 1, 1996 through December 31, 2000, and on and after August 2, 2001 until January 1, 2002, of computers and communications equipment utilized for any hospital purpose and equipment used in the

DEPARTMENT OF REVENUE

NOTICE OF PROPOSED AMENDMENTS

diagnosis, analysis or treatment of hospital patients sold to a lessor who leases the equipment, under a lease of one year or longer executed or in effect at the time of the purchase, to a hospital that has been issued an active tax exemption identification number by the Department under Section 1g of the Retailers' Occupation Tax Act [35 ILCS 120/2-5(28)] (see Section 130.2011 of this Part);

nn) ~~effective January 1, 1996 through December 31, 2000, and on and after August 2, 2001 until January 17, 2001~~, of personal property sold to a lessor who leases the property, under a lease of one year or longer executed or in effect at the time of the purchase, to a governmental body that has been issued an active tax exemption identification number by the Department under Section 1g of the Retailers' Occupation Tax Act [35 ILCS 120/2-5(29)] (see Section 130.2012 of this Part);

oo) of tangible personal property sold to a common carrier by rail or motor that receives the physical possession of the property in Illinois and that transports the property, or shares with another common carrier in the transportation of the property, out of Illinois on a standard uniform bill of lading showing the seller of the property as the shipper or consignor of the property to a destination outside Illinois, for use outside Illinois [35 ILCS 120/2-5(17)];

pp) of aggregate exploration, mining, offhighway hauling, processing, maintenance, and reclamation equipment, including replacement parts and equipment, and including equipment purchased for lease, but excluding motor vehicles required to be registered under the Illinois Vehicle Code [35 ILCS 120/7];

qq) beginning July 20, 1999, game or game birds purchased at:

1) a game breeding and hunting preserve area licensed by the Department of Natural Resources (see Section 3.27 of the Wildlife Code [520 ILCS 5/3.27]);

2) an exotic game hunting area licensed by the Department of Natural Resources (see Section 3.34 of the Wildlife Code [520 ILCS 5/3.34]); or

3) a hunting enclosure approved through rules adopted by the Department of Natural Resources;

rr) beginning January 1, 2000, personal property, including food, purchased through fundraising events for the benefit of a public or private elementary or secondary school, a group of those schools, or one or more school districts if the events are sponsored by an entity recognized by the school district that consists primarily of volunteers and includes parents and teachers of the school children. This subsection (rr) does not apply to fundraising events:

1) for the benefit of private home instruction; or

2) for which the fundraising entity purchases the personal property sold at the events from another individual or entity that sold the property for the purpose of resale by the fundraising entity and that profits from the sale to the fundraising entity [35 ILCS 120/2-5(34)];

ss) of machinery or equipment used in the operation of a high impact

DEPARTMENT OF REVENUE

NOTICE OF PROPOSED AMENDMENTS

service facility located within an enterprise zone established pursuant to the Illinois Enterprise Zone Act. "High impact service facility" means a facility used primarily for the sorting, handling and redistribution of mail, freight, cargo, or other parcels received from agents or employees of the handler or shipper for processing at a common location and redistribution to other employees or agents for delivery to an ultimate destination on an item-by-item basis, and which:

1) will make an investment in a business enterprise project of \$100,000,000 or more;

2) will cause the creation of at least 750 to 1,000 jobs or more in an enterprise zone established pursuant to the Illinois Enterprise Zone Act; and

3) is certified by the Department of Commerce and Community Affairs as contractually obligated to meet the requirements specified in subsection (1)(1) and (2) within the time period as specified by the certification. The certificate of eligibility for exemption shall be presented by the business enterprise to its supplier when making the initial purchase of machinery and equipment for which an exemption is granted by Section 1j of the Act, together with a certification by the business enterprise that such machinery and equipment is exempt from taxation under Section 1j of the Act and by indicating the exempt status of each subsequent purchase on the face of the purchase order [35 ILCS 120/11];

tt) of jet fuel and petroleum products sold to and used in the conduct of its business of sorting, handling and redistribution of mail, freight, cargo or other parcels in the operation of a high impact service facility located within an enterprise zone established pursuant to the Illinois Enterprise Zone Act, provided that the business enterprise has waived its right to a tax exemption of the charges imposed under Section 9-222.1 of the Public Utilities Act [35 ILCS 120/1j.1]. High impact service facilities qualifying under the Act and seeking the exemption under Section 1j.1 shall be ineligible for the exemptions of taxes imposed under Section 9-222.1 of the Public Utilities Act. High impact service facilities qualifying under the Act and seeking the exemption under Section 9-222.1 of the Public Utilities Act shall be ineligible for the exemptions of taxes as described in Section 1j.1 of the Act. [35 ILCS 120/1j.2] The certification of eligibility for exemption shall be presented by the business enterprise to its supplier when making the purchase of jet fuel and petroleum products for which an exemption is granted by Section 1j.1 of the Act, together with a certification by the business enterprise that such jet fuel and petroleum product is exempt from taxation under Section 1j.1 of the Act, and by indicating the exempt status of each subsequent purchase on the face of the purchase order [35 ILCS 120/11]; and

uu) of a motor vehicle, as that term is defined in Section 1-146 of the Illinois Vehicle Code, that is donated to a corporation, limited liability company, society, association, foundation, or institution

DEPARTMENT OF REVENUE

NOTICE OF PROPOSED AMENDMENTS

that is determined by the Department to be organized and operated exclusively for educational purposes. For purposes of this exemption, "a corporation, limited liability company, society, association, foundation, or institution organized and operated exclusively for educational purposes" means all tax-supported public schools, private schools that offer systematic instruction in useful branches of learning by methods common to public schools and that compare favorably in their scope and intensity with the course of study presented in tax-supported schools, and vocational or technical schools or institutes organized and operated exclusively to provide a course of study of not less than 6 weeks duration and designed to prepare individuals to follow a trade or to pursue a manual, technical, mechanical, industrial, business, or commercial occupation. [35 ILCS 120/2-5(33)] Exemption certifications must be executed by the purchaser. The certificate must include: the seller's name and address; the purchaser's name and address; the purchaser's registration number with the Department, if applicable; the purchaser's signature and date of signing; a description of the motor vehicle that is being purchased for immediate donation to a corporation, limited liability company, society, association, foundation, or institution that is determined by the Department to be organized and operated exclusively for educational purposes (see Section 130.2005); the donee's sales tax exemption identification number; and a statement that the motor vehicle is being purchased for immediate donation to a corporation, limited liability company, society, association, foundation, or institution that is determined by the Department to be organized and operated exclusively for educational purposes. The certificates shall be retained by the retailer and shall be made available to the Department for inspection or audit.

vv) of food for human consumption that is to be consumed off the premises where it is sold (other than alcoholic beverages, soft drinks, and food that has been prepared for immediate consumption) and prescription and nonprescription medicines, drugs, medical appliances, and insulin, urine testing materials, syringes, and needles used by diabetics, for human use, when purchased for use by a person receiving medical assistance under Article 5 of the Illinois Public Aid Code who resides in a licensed long-term care facility, as defined in the Nursing Home Care Act [35 ILCS 120/2-5(36)].

ww) beginning January 1, 2000 through December 31, 2001, of new or used automatic vending machines that prepare and serve hot food and beverages, including coffee, soup, and other items, and replacement parts for these machines. Beginning January 1, 2002, of machines and parts for machines used in commercial, coin-operated amusement and vending business if a use or occupation tax is paid on the gross receipts from the use of the commercial, coin-operated amusement and vending machines. [35 ILCS 120/2-5(35)] (See Section 130.332 of this part.)

DEPARTMENT OF REVENUE

NOTICE OF PROPOSED AMENDMENTS

(Source: Amended at 26 Ill. Reg. _____, effective _____)

SUBPART C: CERTAIN STATUTORY EXEMPTIONS

Section 130.325 Graphic Arts Machinery and Equipment Exemption

- a) General. Notwithstanding the fact that sales may be at retail, the Retailers' Occupation Tax does not apply to the sale of machinery and equipment, including repair and replacement parts, both new and used and including that manufactured on special order to be used primarily in graphic arts production. The exemption extends to purchases by lessors who will lease the property for use primarily in graphic arts production. Taxpayers must certify the use of the equipment they are purchasing to their suppliers. (See subsection (i) of this Section.)
- b) Graphic Arts Production. Provisions effective August 13, 1999:
- 1) Graphic arts production has the following meanings and applications:
 - A) Graphic arts production means printing, including ink jet printing, by one or more of the processes described in Groups 323110 through 323122 of Subsector 323, Groups 511110 through 511199 of Subsector 511, and Group 512230 of Subsector 512 of the North American Industry Classification System ("NAICS") published by the U.S. Office of Management and Budget, 1997 edition (no subsequent amendments or editions are included). Graphic arts production does not include the transfer of images onto paper or other tangible personal property by means of photocopying or final printed products in electronic or audio form, including the production of software or audio-books. (Section 2-30 of the Act) Groups 323110 through 323122 of Subsector 323, Groups 511110 through 511199 of Subsector 511, and Group 512230 of Subsector 512 include printing upon apparel and textile products, paper, metal, glass, plastics, and other materials except fabric (grey goods). Printing upon grey goods is part of the process of finishing fabric and is included in the NAICS Textile Mills subsector in Industry 3131, Textile and Fabric Finishing Mills.
 - B) The North American Industry Classification System referenced in subsection (b)(1) can be obtained from the U.S. Department of Commerce, National Technical Information Service, 5285 Port Royal Road, Springfield, Virginia 22161 (Phone: 1-800-553-6847). The Department also maintains a copy of this information, which may be obtained upon request and at cost, from the Legal Services Office, 5-500, 101 West Jefferson Street, Springfield, Illinois 62794.
 - C) The exemption applies to machinery and equipment used in graphic arts production processes, as those processes are

DEPARTMENT OF REVENUE

NOTICE OF PROPOSED AMENDMENTS

sub-unit or assembly comprising a component of any machinery or auxiliary, adjunct, or attachment parts of machinery. Beginning August 23, 2001, equipment includes chemicals or chemicals acting as catalysts but only if the chemicals or chemicals acting as catalysts effect a direct and immediate change upon a graphic arts product.

- A) The exemption does not include hand tools, supplies such as rags, lubricants, adhesives, solvents, ink, dyes, chemicals except as described in this subsection (b)(2), negatives, acids or solutions, fuels, electricity and steam or water. The exemption also does not include items of personal apparel, such as gloves, shoes, glasses, goggles, coveralls, aprons, and masks.
 - B) This exemption does not include the sale of materials to a purchaser who manufactures those materials into an otherwise exempted type of graphic arts machinery or equipment.
 - C) Machinery and equipment does not include foundations or special purpose buildings to house or support graphic arts machinery and equipment.
 - D) Machinery and equipment does not include computer software unless purchased preinstalled in qualifying computer equipment. Computer software not purchased preinstalled in qualifying computer equipment, including upgrades or new software, is subject to tax.
- 3) Primary Use. The law requires that machinery and equipment be used primarily in graphic arts production.
- A) Therefore, machinery that is used primarily in an exempt process and partially in a nonexempt manner would qualify for the exemption. However, the purchaser must be able to establish through adequate records that the machinery or equipment is used over 50% in an exempt manner in order to claim the exemption.
 - B) The fact that particular machinery or equipment may be considered essential to the conduct of the business of graphic arts production because its use is required by law or practical necessity does not, of itself, mean the machinery or equipment is used primarily in graphic arts production.
- 4) By way of illustration and not limitation, the following activities will generally be considered graphic arts production:
- A) Prepress or preliminary processes. Prepress or preliminary processes include the steps required to transform an original into a state that is ready for reproduction by printing. Prepress or preliminary processes include typesetting, film production, color separation, final photocomposition (e.g., image assembly and imposition (stripping)), and platemaking. Prepress or preliminary processes include the manipulation of images or text in

DEPARTMENT OF REVENUE

NOTICE OF PROPOSED AMENDMENTS

described in the NAICS. While the NAICS subsectors referenced in subsection (b)(1)(A) describe types of graphic arts establishments that typically engage in graphic arts production, the exemption is not limited to qualifying machinery and equipment used by the establishments described in the NAICS, but rather, to qualifying machinery and equipment used in the printing processes described in the NAICS (for example, lithography, gravure, flexography, screen printing, quick printing, digital printing and trade services such as prepress and binding and finishing services). The tangible personal property produced by graphic arts production need not be sold at retail in order for the exemption to apply. For instance, a company's purchase of qualifying graphic arts equipment used to produce its own printed materials qualifies for the exemption, even though the company is not in the business of selling printed materials at retail.

- D) The exemption includes printing by methods of engraving, letterpress, lithography, gravure, flexography, screen, quick, and digital printing. It also includes the printing of manifold business forms, blankbooks, looseleaf binders, books, periodicals and newspapers. Included in the exemption are prepress services described in Subsector 323122 of the NAICS (e.g., the creation and preparation of negative or positive film from which plates are produced, plate production, cylinder engraving, typesetting and imagesetting). The exemption also includes trade binding and related printing support activities set forth in Subsector 323121 of the NAICS (e.g., tradebinding, sample mounting and postpress services, such as book or paper bronzing, edging, embossing, folding, gilding, gluing, die cutting, finishing, tabbing and indexing).
 - E) "Digital printing and quick printing" mean the printing of graphical text or images by a process utilizing digital technology, as provided in subsection (b)(4) of this Section. It also includes the printing of what is commonly known as "digital photography" (e.g., use of a qualifying integrated computer and printer system to print a digital image). The exemption extends only to machinery and equipment, including repair and replacement parts, used in the act of production. Accordingly, no other type or kind of tangible personal property will qualify for the exemption, even though it may be used primarily in the graphic arts business.
- 2) Machinery means major mechanical machines or major components of such machines contributing to graphic arts production. Equipment means any independent device or tool separate from any machinery but essential to the graphic arts production process; or any

DEPARTMENT OF REVENUE

NOTICE OF PROPOSED AMENDMENTS

preparation for printing for the purpose of conforming those images to the specific requirements of the printing process being utilized. For example, the images must be conformed for a specific signature layout and formatted to a specific paper size. In addition, colors must be calibrated to the specific type of paper or printing process utilized, so that they conform to customer specifications. Prepress or preliminary processes do not, however, include the creation or artistic enhancement of images that will later be reproduced in printed form by a graphic arts process. For example, the creation of an advertisement pursuant to customer direction, or enhancement of a photograph received from a customer by adding a border, text or rearranging the placement of images in the photograph, is not the performance of a qualifying prepress or preliminary process. Prepress or preliminary processes can be performed at the printing facility, a separate prepress or preliminary facility, the customer's location, or other location. The following are examples of equipment used in qualifying prepress or preliminary activities:

- i) Large scale, fixed-position cameras used to photograph two dimensional copy to produce negatives or positives used in the production of plates; film processors; scanners; imposetters; RIP (raster image processor) equipment; proofing equipment; imagesetters, plate processors, helioklichographs and computer-to-plate and computer-to-press equipment.
- ii) Computers that qualify include computers used primarily to receive, store and manipulate images to conform them to the requirements of a specific printing process that will later be performed. Computers used in connection with what is commonly referred to as "digital photography" will qualify if used primarily to format the graphic image that will be printed (e.g., used to format the size and layout of images to be printed). If such computers are primarily used, however, to apply background colors, borders or other artistic enhancements, or to view and select particular digital images to be printed, they will not qualify for the exemption.
- iii) Digital cameras do not qualify if they are used primarily to create an original image that will later be reproduced by a graphic arts process.
- iv) Servers used primarily to transfer images and text to qualifying equipment qualify, but do not qualify if used primarily in a non-exempt activity (for example, servers used to maintain an in-house email system).
- v) Scanners used primarily to input previously created

DEPARTMENT OF REVENUE

NOTICE OF PROPOSED AMENDMENTS

images or text that will be reproduced by a graphic arts process qualify for the exemption.

- B) The transfer of images or text from computers, plates, cylinders or blankets to paper or other stock to be printed. This process begins when paper is introduced on the press. Examples of qualifying equipment used in this activity include printing plates, printing presses, blankets and rollers, automatic blanket washers, scorers and dies, folders, punchers, stackers, strappers used in the pressroom for signatures, dryers, chillers and cooling towers. Laser or ink jet printers used to print on paper or other stock are also included in this exemption.
- i) Equipment used to handle or convey printed materials between production stations in an integrated on-line graphic arts process is included in the exemption (e.g., a forklift or bindery cart will qualify for the exemption if it is primarily used to convey book covers that have been printed and cut to binding and finishing equipment).
- ii) Computer equipment used to operate exempt graphic arts equipment also qualifies for the exemption.
- iii) Equipment, such as transformers, used primarily to provide power to qualifying printing presses or bindery lines, qualifies for the exemption. Similarly, heating and cooling machinery or equipment used to produce an environment necessary for the production of printed material qualifies for the exemption. For example, humidity-control equipment used to reduce static during the printing process qualifies for the exemption.
- C) Activities involving the binding, collating or finishing of the graphic arts product. Equipment used in these activities includes, for instance, binders, packers, gathers, joggers, trimmers, electronic equipment, blow-in card feeders, inserters, stitchers, gluers, spiral binders, addressing machines, labelers and ink-jet printers.
- i) Machinery or equipment used to convey materials to packaging areas after the graphic arts product has been printed, bound and finished qualifies for the exemption. Such equipment includes, for instance, conveyor systems, hoists or other conveyance mechanisms used to direct the final printed product into packaging areas.
- ii) Machinery or equipment used to package materials after the graphic arts product has been printed, bound and finished qualifies for the exemption. Such packaging equipment includes, for instance, cartoning systems, palletizers, stretch wrappers, strappers, shrink

DEPARTMENT OF REVENUE

NOTICE OF PROPOSED AMENDMENTS

tunnels and similar equipment.

- 5) By way of illustration and not limitation, the following activities will generally not be considered to be graphic arts production:

- A) The use of machinery and equipment in general maintenance or repair work on production machinery or equipment. This includes hand tools, welding tools, racks, and other machinery and equipment used in the maintenance area.
- B) The use of machinery and equipment (e.g., fork lifts, roll clamps and roll grabbers) to convey raw materials to the press does not qualify for the exemption.
- C) The use of machinery or equipment to convey materials to final storage or shipping areas. Such equipment includes, for instance, fork lifts used primarily to place the packaged printed product into final storage or shipping areas.
- D) The use of machinery or equipment to gather information, track jobs or to perform data-related functions prior to a qualifying prepress activity (e.g., computers used primarily to edit or create text, data, or other copy). Such equipment includes items such as inventory tracking devices and bar-code readers.
- E) The use of machinery or equipment to photocopy printed matter. A copier that is capable of printing images or text transmitted to it in digital form will qualify. However, a copier that produces photocopies by means of xerographic technology is subject to tax.
- F) The use of machinery or equipment in managerial, sales or other non-production, non-operational activities including inventory control, production scheduling, purchasing, receiving, accounting, physical management, general communications, plant security, marketing, or personnel recruitment, selection or training. Waste disposal equipment (e.g., equipment used to contain and recapture paper dust) does not qualify for the exemption. However, for information regarding the pollution control exemption, see Section 130.335 of this Part. Similarly, baling equipment used to recycle paper waste does not qualify under this exemption. However, the manufacturing machinery and equipment exemption may be applicable. (See Section 130.330 of this Part.)
- G) The use of machinery and equipment to prevent or fight fires or to protect employees, such as protective masks, respirators, first-aid kits, gloves, coveralls and goggles, or for safety, accident protection or first-aid, even though that machinery or equipment may be required by federal, State or local law.
- H) The use of machinery or equipment for general ventilation,

DEPARTMENT OF REVENUE

NOTICE OF PROPOSED AMENDMENTS

heating, cooling, climate control or general illumination, except when the machinery or equipment is used to produce an environment necessary for the production of printed material.

- 6) An item of machinery or equipment that initially is used primarily in graphic arts production and having been so used for less than one-half of the useful life and is converted to primarily nonexempt uses will become subject to the tax at the time of the conversion. The tax will be collected on that portion of the price of the machinery or equipment as was excluded from tax at the time the sale or purchase was made.
 - 7) Sales to Lessors of Graphic Arts Equipment. The statute provides for the purchase of graphic arts machinery and equipment by lessors who will lease that machinery and equipment for use in graphic arts production. Therefore, if the purchaser of the machinery or equipment leases the machinery and equipment to a lessee who uses it in an exempt manner, the sale to the purchaser-lessee will be exempt from tax. A supplier may exclude these sales from his taxable gross receipts provided that the purchaser-lessee provides to him a properly completed exemption certificate and the information contained in the certificate would support an exemption if the sale were made directly to the lessee. Should a purchaser-lessee subsequently lease the machinery or equipment to a lessee who does not use it in an exempt manner that would qualify directly for the exemption, the purchaser-lessee will become liable for the tax from which he was previously exempted.
 - 8) Exemption Certification. Purchasers wishing to claim the exemption must certify to their suppliers that the machinery and equipment will be used primarily for graphic arts production. Retailers must maintain the certificates in their books and records. The use of blanket certificates of exemption will be permitted. The certificate must include the seller's name and address, the purchaser's name and address and a statement that the property purchased will be used primarily in graphic arts production. So long as the retailer obtains a certificate of exemption that contains all the information required in this subsection (b)(8), the retailer need not verify that the equipment he sells is actually used as graphic arts production equipment. If a graphic arts producer or lessor purchases at retail from a vendor who is not registered to collect Illinois Use Tax, the purchaser must maintain a copy of the certification in his records to support the deduction taken on the return.
- c) Graphic Arts Production. Provisions in effect until August 13, 1999:
- 1) *Graphic arts production means printing by one or more of the common processes or graphic arts production services as those processes and services are defined in Major Group 27 of the U.S. Standard Industrial Classification Manual.* (Section 2-30 of the

DEPARTMENT OF REVENUE

NOTICE OF PROPOSED AMENDMENTS

Act) The exemption includes printing by letterpress, lithography, gravure, screen, engraving and flexography and includes such printing trade services as typesetting, negative production, plate production, bookbinding, finishing, looseleaf binder production and other services set forth in Major Group 27. The exemption extends only to machinery and equipment used in the act of production. Accordingly, no other type or kind of tangible personal property will qualify for the exemption, even though it may be used primarily in the graphic arts business.

2) Machinery means major mechanical machines or major components of such machines contributing to graphic arts production. Equipment means any independent device or tool separate from any machinery but essential to the graphic arts production process; or any sub-unit or assembly comprising a component of any machinery or auxiliary, adjunct or attachment or parts of machinery. The exemption does not include hand tools, supplies, lubricants, adhesives or solvents, ink, chemicals, dyes, acids or solutions, fuels, electricity, steam or water, items of personal apparel such as gloves, shoes, glasses, goggles, coveralls, aprons, and masks, or such items as negatives, one-time use printing plates as opposed to multiple use cylinders or lithographic plates, dies, etc. which are expendable supplies. This exemption does not include the sale of materials to a purchaser who manufactures such materials into an otherwise exempted type of graphic arts machinery or equipment.

3) Machinery and equipment does not include foundations for or special purpose buildings to house or support graphic arts machinery and equipment.

4) Primary Use.

A) The law requires that machinery and equipment be used primarily in graphic arts production. Therefore, machinery which is used primarily in an exempt process and partially in a nonexempt manner, would qualify for the exemption. However, the purchaser must be able to establish adequate records that the machinery or equipment is used over 50% in an exempt manner in order to claim the deduction.

B) The fact that particular machinery or equipment may be considered essential to the conduct of the business of graphic arts production because its use is required by law or practical necessity does not, of itself, mean the machinery or equipment is used primarily in graphic arts production.

C) By way of illustration and not limitation, the following activities will generally be considered to constitute an exempt use:

- i) Machinery and equipment to directly produce typesetting, negatives and plates including final photo-composition and color separation processes.

DEPARTMENT OF REVENUE

NOTICE OF PROPOSED AMENDMENTS

ii) The use of machinery and equipment to transfer images or text from type or plates or image carriers to paper or other stock to be printed.

iii) Equipment to collate, bind or finish the graphic arts product covered in subsection (c)(2), above.

iv) Large scale, fixed-position cameras used to photograph two dimensional copy to produce negatives or positives used in the production of plates.

D) By way of illustration and not limitation, the following activities will generally not be considered to be graphic arts production:

i) The use of machinery and equipment in general maintenance or repair work on production machinery or equipment.

ii) The use of machinery or equipment to store, convey, handle or transport materials.

iii) The use of machinery or equipment to place the printed product in the container package or wrapping in which such property is normally sold to the ultimate consumer thereof.

iv) The use of machinery or equipment to gather information, photograph, transmit data, edit text, prepare drafts or copy or perform other date-related functions prior to final composition, typesetting, engraving or other preparation of the image carrier.

v) Xerographic or photocopying machines do not qualify for the exemption.

vi) Word processing, text editing machinery or computerized equipment unless it is an integral part of a final graphic arts operation such as a computer-controlled typesetting machine or equivalent that is used primarily in graphic arts production.

vii) Computers used to store data and generate text, maps, graphs or other print-out formats unless the product is an image carrier to be used to repetitively transfer images by printing. For example, a computer which generates an image which may later be reproduced by a graphic arts process would not qualify while a computer-controlled engraving system which produces printing cylinders and computer-controlled digital typesetting equipment would qualify.

viii) The use of machinery or equipment in managerial, sales or other non-production, non-operational activities including disposal of waste, inventory control, production scheduling, purchasing, receiving, accounting, physical management, general communications, plant security, sales, marketing, product exhibition and promotion, or personnel

DEPARTMENT OF REVENUE

NOTICE OF PROPOSED AMENDMENTS

- recruitment, selection or training.
- ix) The use of machinery and equipment to prevent or fight fires or to protect employees, such as protective masks, gloves, coveralls and goggles or for safety, accident protection or first-aid even though such machinery or equipment may be required by law.
- x) The use of machinery or equipment for general ventilation, heating, cooling, climate control or general illumination.
- E) An item of machinery or equipment which initially is used primarily in graphic arts production and having been so used for less than one-half of the useful life is converted to primarily nonexempt uses, will become subject to the tax at the time of the conversion. Such tax will be collected on such portion of the purchase price of the machinery or equipment as was excluded from tax at the time the sale or purchase was made.

5) Sales to Lessors of Graphic Arts Equipment.

The statute provides for the purchase of graphic arts machinery and equipment by lessors who will lease such machinery and equipment for use in graphic arts production. Therefore, if the purchaser of the machinery or equipment leases the machinery and equipment to a lessee who uses it in an exempt manner, the sale to the purchaser-lessee will be exempt from tax. A supplier may exclude such sales from his taxable gross receipts provided that the purchaser-lessee provides to him a properly completed exemption certificate and the information contained therein would support an exemption if the sale were made directly to the lessee. Should a purchaser-lessee subsequently lease the machinery or equipment to a lessee who does not use it in an exempt manner that would qualify directly for the exemption, the purchaser-lessee will become liable for the tax from which he was previously exempted.

6) Exemption Certification.

Purchasers wishing to claim the exemption must certify to their suppliers that the machinery and equipment will be used primarily for graphic arts production. Retailers must maintain such certificates in their books and records. The use of blanket certificates of exemption will be permitted. If a graphic arts producer or lessor purchases at retail from a vendor who is not registered to collect Illinois Use Tax, the purchaser must maintain a copy of the certification in his records to support the deduction taken on the return. The certificate must include the seller's name and address, the purchaser's name and address and a statement that the property purchased will be used primarily in graphic arts production.

7) For the purpose of determining the portion of the proceeds or cost which may be excluded from tax, a sale of property will be

DEPARTMENT OF REVENUE

NOTICE OF PROPOSED AMENDMENTS

deemed to be made as of the date of delivery of such property. If a single sale of property is made which calls for multiple deliveries unrelated to payments and a portion of the sold property is delivered when one fraction of the proceeds or cost is excludable and the remainder of the property is delivered when a different fraction of the proceeds or cost is excludable, the earliest date of delivery of any of the property will determine the portion of the proceeds or cost of the entire sale which may be excluded in computing the tax which is due on that entire sale. However, even when a contract provides for multiple deliveries, if a payment is closely related in time and quantity to the property delivered, the date of each delivery will determine the portion of the proceeds or cost which may be excluded in computing the tax that is due on that payment.

(Source: Amended at 26 Ill. Reg. _____, effective _____)

Section 130.330 Manufacturing Machinery and Equipment

- a) General. Notwithstanding the fact that the sales may be at retail, the Retailers' Occupation Tax does not apply to sales of machinery and equipment used primarily in the manufacturing or assembling of tangible personal property for wholesale or retail sale or lease. The exemption applies whether the sale or lease is made directly by the manufacturer or some other person. In certain cases purchases of machinery and equipment by a lessor will be exempt even though that lessor does not himself employ the machinery and equipment in an exempt manner.
- b) Manufacturing and Assembling.
- 1) This exemption exempts from tax only machinery and equipment used in manufacturing or assembling tangible personal property for sale or lease. Thus, the use of machinery and equipment in any industrial, commercial or business activity which may be distinguished from manufacturing or assembling will not be an exempt use and such machinery and equipment will be subject to tax.
- 2) The manufacturing process is the production of any article of tangible personal property, whether such article is a finished product or an article for use in the process of manufacturing or assembling a different article of tangible personal property, by procedures commonly regarded as manufacturing, processing, fabricating or refining which changes some existing material or materials into a material with a different form, use or name. These changes must result from the process in question and be substantial and significant.
- 3) The process or activity must be commonly regarded as manufacturing. To be so regarded, it must be thought of as

DEPARTMENT OF REVENUE

NOTICE OF PROPOSED AMENDMENTS

manufacturing by the general public. Generally, the scale, scope and character of a process or operation will be considered to determine if such process or operation is commonly regarded as manufacturing. Manufacturing includes such activities as processing, fabricating and refining.

4) Manufacturing does not include extractive industrial activities. Mining, logging, and drilling for oil, gas, and water neither produce articles of tangible personal property nor effect any significant or substantial change in the form, use or name of the materials or resources upon which they operate. The extractive process of quarrying does not constitute manufacturing. However, the activities subsequent to quarrying such as crushing, washing, sizing and blending will constitute manufacturing, and machinery and equipment used primarily therefor will qualify for the exemption, if the process results in the assembling of an article of tangible personal property with a different form, use or name than the material extracted.

5) The printing process is not commonly regarded as manufacturing and court decisions have found that printing is not manufacturing. Therefore, machinery and equipment used in any printing application will not qualify for exemption. This includes graphic arts, newspapers, books, etc. as well as other industrial or commercial applications. (However, see Section 130.325 for the Graphic Arts Machinery and Equipment Exemption.)

6) Agricultural, horticultural and related, similar or comparable activities, including commercial fishing, beekeeping, production of seedlings or seed corn, and the development of hybrid seeds, plants, or shoots, are not manufacturing or assembling and, accordingly, machinery and equipment used in such activities is subject to tax. (However, see Section 130.305 for the Farm Machinery and Equipment Exemption.)

7) The preparation of food and beverages by restaurants, food service establishments, and other retailers is not manufacturing. Assembling means the production of any article of tangible personal property, whether such article is a finished product or an article for use in the process of manufacturing or assembling a different article of tangible personal property, by the combination of existing materials in a manner commonly regarded as assembling which results in a material of a different form, use or name.

9) Effective September 1, 1988 manufacturing includes photoprocessing if the products of photoprocessing are sold. Machinery and equipment which would qualify for exemption includes, but are not limited to, developers, dryers, enlargers, mounting machines, roll film splicers, film developing image makers, disc film opening and spindling devices, film indexers, photographic paper exposure equipment, photographic paper developing machines, densitometers, print inspection devices,

DEPARTMENT OF REVENUE

NOTICE OF PROPOSED AMENDMENTS

photo print/negative out assembly stations, film sleeve insertion machines, negative image producers, film coating equipment, photo transparency mounters, processor rack sanitizers, photo print embossers, photo print mounting presses, graphic slide generators, chemical mixing equipment and paper exposure positioning and holding devices, etc. Cameras and equipment used to take pictures or expose film are not eligible as the photoprocessing begins after the film is exposed. Retail/net price calculation equipment and chemical reclamation equipment are not considered to be manufacturing machinery and equipment.

c) Machinery and Equipment

1) The law exempts only the purchase and use of "machinery" and "equipment" used in manufacturing or assembling. Accordingly, no other type or kind of tangible personal property will qualify for the exemption, even though it may be used primarily in the manufacturing or assembling of tangible personal property for sale or lease.

2) Machinery means major mechanical machines or major components of such machines contributing to a manufacturing or assembling process: including, machinery and equipment used in the general maintenance or repair of such exempt machinery and equipment or for in-house manufacture of exempt machinery and equipment.

3) Equipment includes any independent device or tool separate from any machinery but essential to an integrated manufacturing or assembling process: including computers used primarily in operating exempt machinery and equipment in a computer-assisted design, computer-assisted manufacturing (CAD/CAM) system; or any subunit or assembly comprising a component of any machinery or auxiliary, adjunct, or attachment, parts of machinery, such as tools, dies, jigs, fixtures, patterns and molds, and any parts which require periodic replacement in the course of normal operation. Beginning August 23, 2001, equipment included computers used primarily in a manufacturer's computer-assisted design, computer-assisted manufacturing (CAD/CAM) system. For example, beginning August 23, 2001, a computer used by a manufacturer 25% of the time in operating exempt machinery and equipment (computer assisted manufacturing - CAM) and 75% of the time in design (computer assisted design - CAD) will now qualify for the exemption. Prior to August 23, 2001, a computer used in the manner described in the preceding sentence would not have qualified for the exemption because it did not primarily (over 50% of the time) operate exempt machinery and equipment. The exemption does not include hand tools, supplies (such as rags, sweeping or cleaning compounds), coolants, lubricants, adhesives, or solvents, items of personal apparel (such as gloves, shoes, glasses, goggles, coveralls, aprons, masks, mask air filters, belts, harnesses, or holsters), coal, fuel oil, electricity, natural gas, artificial gas, steam, refrigerants or water.

DEPARTMENT OF REVENUE

NOTICE OF PROPOSED AMENDMENTS

(Section 2-45 of the Act)

- 4) The exemption includes the sale of materials to a purchaser who manufactures such materials into an exempted type of machinery or equipment or tools which such purchaser uses himself in the manufacturing of tangible personal property or leases to a manufacturer of tangible personal property. However, such purchaser must maintain adequate records clearly demonstrating the incorporation of such materials into exempt machinery and equipment.
- 5) Machinery and equipment does not include foundations for, or special purpose buildings to house or support, machinery and equipment.
- 6) *The exemption includes chemicals or chemicals acting as catalysts but only if the chemicals or chemicals acting as catalysts they effect a direct and immediate change upon a product being manufactured or assembled for sale or lease.* The following examples are illustrative:

- A) Example 1. A chemical acid is used to etch copper off the surface of a printed circuit board during the manufacturing process. The acid causes a direct and immediate change upon the product. The acid qualifies for the exemption.
- B) Example 2. An aluminum oxide catalyst is used in a catalytic cracking process to refine heavy gas oil into gasoline. In this process, large molecules of gas oil or feed are broken up into smaller molecules. After the catalyst is injected into the feed and used in the cracking process, it is drawn off and reused in subsequent manufacturing processes. The catalyst qualifies for the exemption.

d) Primary Use

- 1) The law requires that machinery and equipment be used primarily in manufacturing or assembling. Therefore, machinery which is used primarily in an exempt process and partially in a nonexempt manner would qualify for exemption. However, the purchaser must be able to establish through adequate records that the machinery or equipment is used over 50 percent in an exempt manner in order to claim the deduction.
- 2) The fact that particular machinery or equipment may be considered essential to the conduct of the business of manufacturing or assembling because its use is required by law or practical necessity does not, of itself, mean that machinery or equipment is used primarily in manufacturing or assembling.
- 3) By way of illustration and not limitation, the following activities will generally be considered to constitute an exempt use:
- A) The use of machinery or equipment to effect a direct and immediate physical change upon the tangible personal property to be sold;
- B) The use of machinery or equipment to guide or measure a

DEPARTMENT OF REVENUE

NOTICE OF PROPOSED AMENDMENTS

direct and immediate physical change upon the tangible personal property to be sold, provided such function is an integral and essential part of tuning, verifying, or aligning the component parts of such property;

- C) The use of machinery or equipment to inspect, test or measure the tangible personal property to be sold where such function is an integral part of the production flow;
- D) The use of machinery and equipment to convey, handle, or transport the tangible personal property to be sold within production stations on the production line or directly between such production stations or buildings within the same plant;
- E) The use of machinery or equipment to place the tangible personal property to be sold into the container, package, or wrapping in which such property is normally sold where such machinery or equipment is used as a part of an integrated manufacturing process;
- F) The production or processing of food, including the use of baking equipment such as ovens to bake bread or other bakery items, whether that baking is performed by a central bakery or a retail grocery store;
- G) The use of machinery or equipment such as buffers, builders, or vulcanizing equipment to retread tires, whether or not the tire casing is provided by the purchaser.
- 4) By way of illustration and not limitation, the following activities will generally not be considered to be manufacturing:
- A) The use of machinery or equipment in the construction, reconstruction, alteration, remodeling, servicing, repairing, maintenance, or improvement of real estate;
- B) The use of machinery or equipment in research and development of new products or production techniques, machinery, or equipment;
- C) The use of machinery or equipment to store, convey, handle or transport materials or parts or sub-assemblies prior to their entrance into the production cycle;
- D) The use of machinery or equipment to store, convey, handle or transport finished articles of tangible personal property to be sold or leased after completion of the production cycle;
- E) The use of machinery or equipment to transport work in process, or semifinished goods, between plants;
- F) The use of machinery or equipment in managerial, sales, or other nonproduction, nonoperational activities including disposal of waste, scrap or residue, inventory control, production scheduling, work routing, purchasing, receiving, accounting, fiscal management, general communications, plant security, sales, marketing, product exhibition and

DEPARTMENT OF REVENUE

NOTICE OF PROPOSED AMENDMENTS

- promotion, or personnel recruitment, selection or training;
- G) The use of machinery or equipment to prevent or fight fires or to protect employees, such as protective equipment face masks, helmets, gloves, coveralls, and goggles or for safety, accident protection or first aid even though such machinery or equipment may be required by law;
- H) The use of machinery or equipment for general ventilation, heating, cooling, climate control or general illumination, not required by the manufacturing process;
- I) The use of machinery or equipment in the preparation of food and beverages by a retailer for retail sale, i.e., restaurants, vending machines, food service establishments, etc.
- 5) An item of machinery or equipment which initially is used primarily in manufacturing or assembling and having been so used for less than one-half of the useful life is converted to primarily nonexempt uses will become subject to tax at the time of the conversion. Such tax will be collected on such portion of the price of the machinery or equipment as was excluded from tax at the time the sale or purchase was made.

e) Product Use

- 1) The statute requires that the product produced as a result of the manufacturing or assembling process be tangible personal property for sale or lease. Accordingly, a manufacturer or assembler who uses any significant portion of the output of his machinery or equipment, either for internal consumption or any other nonexempt use, or a lessor who leases otherwise exempt machinery and equipment to such a manufacturer or assembler, will not be eligible to claim the exemption on that machinery and equipment. No apportionment of production capacity between output for sale or lease and output for self-use will be permitted and no partial exemption for any item of machinery and equipment will be allowed.
- 2) The production of articles of tangible personal property for sale, a portion of which is diverted by the manufacturer thereof to use as sales samples or as the subjects of quality control testing which renders the articles unfit for sale, will nevertheless be deemed to be production for sale, provided such diversion represents only a small portion of the production of the articles of tangible personal property or of the sale of those articles.
- 3) Machinery and equipment used in the performance of a service, such as dry cleaning, is not used in the production of tangible personal property for sale and is thus taxable. However, a manufacturer or assembler who uses machinery and equipment to produce goods for sale or lease by himself or another, or to perform assembly or fabricating work for a customer who retains the manufacturer or assembler only for his services, will not be

DEPARTMENT OF REVENUE

NOTICE OF PROPOSED AMENDMENTS

liable for tax on the machinery and equipment he uses as long as the goods produced either for himself or another are destined for sale or lease, rather than for use and consumption.

- f) Sales to Lessors of Manufacturers
- 1) For this exemption to apply, the purchaser need not himself employ the exempt machinery or equipment in manufacturing. If the purchaser leases that machinery or equipment to a lessee-manufacturer who uses it in an exempt manner, the sale to the purchaser-lessee will be exempt from tax. A supplier may exclude such sales from his taxable gross receipts provided the purchaser-lessee provides to him a properly completed exemption certificate and the information contained herein would support an exemption if the sale were made directly to the lessee-manufacturer.
 - 2) Should a purchaser-lessee subsequently lease the machinery or equipment to a lessee who does not use it in a manner that would qualify directly for the exemption, the purchaser-lessee will become liable for the tax from which he was previously exempted.
- g) Exemption Certificates
- 1) The user of such machinery or equipment and tools shall prepare a certificate of exemption for each transaction stating facts establishing the exemption for that transaction and submit the certificate to the retailer. The certificates shall be retained by the retailer and shall be made available to the Department for inspection or audit. The Department shall prescribe the form of the certificate. If the user has an active registration or resale number, that number may be given in lieu of the prescribed certificate.
 - 2) If a manufacturer or lessor purchases at retail from a vendor who is not registered to collect Illinois Use Tax, the purchaser must prepare and retain in his files, the completed exemption certificate. The exemption certificate shall be available to the Department for inspection or audit.
 - 3) A vendor who makes sales of machinery or equipment to a manufacturer or lessor of a manufacturer must collect Use Tax, and will owe Retailers' Occupation Tax, on that sale unless the purchaser certifies the exempt nature of the purchase to the vendor as set out above. The Summary Schedule, RR-586, must be submitted in lieu of taxes at the time the taxes are due.
- h) Opinions and Rulings
- Informal ruling and opinion letters issued by the Department regarding the coverage and applicability of this exemption to specific devices will be maintained by the Department in Springfield. They will be available for public inspection and may be copied or reproduced at taxpayer's expense. Trade secrets or other confidential information in such letters will be deleted prior to release to public access files.

DEPARTMENT OF REVENUE

NOTICE OF PROPOSED AMENDMENTS

(Source: Amended at 26 Ill. Reg. _____, effective _____)

Section 130.332 Automatic Vending Machines that--Dispense--Hot--Foods--or Beverages

- a) General. Notwithstanding the fact that the sales may be at retail, effective January 1, 2000 and through December 31, 2001, the Retailers' Occupation Tax does not apply to sales of new or used automatic vending machines that prepare and serve hot food and beverages. The exemption also applies to individual replacement parts for these machines. Beginning January 1, 2002, the Retailers' Occupation Tax does not apply to sales of machines and parts for machines used in commercial, coin-operated amusement and vending business if a use or occupation tax is paid on the gross receipts derived from the use of the commercial, coin-operated amusement and vending machines. (See [35 ILCS 120/2-5(35)]--)
- b) Exempt Usage of Vending Machines - January 1, 2000 through December 31, 2001. -- Between January 1, 2000 and December 31, 2001, this exemption exempts from tax only automatic vending machines used in the preparation and serving of hot food and beverages. For purposes of this exemption, an automatic vending machine is an electrically operated machine into which customers insert U.S. legal tender coinage or paper money to cause a food or beverage item to be dispensed, the temperature of which is heated above the ambient temperature at the time it is removed by the customer. The use of vending machines in any other activity will not qualify for this exemption. The use of vending machines to dispense or serve unheated food or beverage products will not be an exempt use and those machines will be subject to tax. The use of vending machines to sell or dispense any non-food items is not an exempt use and those machines will be subject to tax.
- c) Exempt Usage of Vending Machines - On and after January 1, 2002

1) After December 31, 2001, the exemption applies to machines and parts for machines used in commercial, coin-operated amusement and vending businesses, so long as the owner, operator or user of the machine incurs a use or occupation tax liability. The following are examples of situations in which the tax liability is incurred on machines:

- A) Retailers' Occupation Tax is incurred on the sale of tangible personal property through a vending machine.
- B) Use Tax liability is incurred on tangible personal property that is awarded as a "prize" resulting from the operation of an amusement machine.
- 2) For those machines or parts where a use or occupation tax is not incurred, the exemption does not apply to sales of those machines or parts for those machines. For example, a seller does not incur Retailers' Occupation Tax on gross receipts derived from sales of items through bulk vending machines. As a result, sales

DEPARTMENT OF REVENUE

NOTICE OF PROPOSED AMENDMENTS

of bulk vending machines and parts for those machines are subject to tax. (See Section 1 of the Act.)

- 3) For purposes of this exemption, "parts for machines" includes replacement parts.

d) Restrictions Applicable to All Periods

12) The use of microwave ovens or other devices as units separate and apart from vending machines to heat food or beverages sold by vending machines is not an exempt use and the microwave ovens or other devices will be subject to tax.

23) Constructed The exemption is limited to--vending--machines--that operate--and--serve--hot--food--and--beverages--such--as--soup--coffee--and hot--cocoa--Specifically--constructed foundations or other buildings or structures that support or house vending machines do not qualify for this exemption.

4) An automatic vending machine that is converted to a nonexempt use will become subject to tax at the time of conversion--based--upon the--original--selling--price--Replacement--parts--purchased initially--for--use--in--a--qualifying--manner--and--used--in--a non-qualifying--manner--will become subject to tax at the time of non-qualifying use.

ee) Purchaser Certification

1) The purchaser of machines or replacement parts affected by this Section shall prepare a certificate of exemption for each transaction stating facts establishing the exemption for that transaction and submit the certificate to the retailer. Between January 1, 2000 and December 31, 2001, the certificate must include the seller's name and address, the purchaser's name and address and a statement that the property purchased will be a vending machine or replacement part used for the preparation and serving of hot food or beverages. After December 31, 2001, the certificate must include the seller's name and address, the purchaser's name and address and a statement that the property purchased will be a machine or part used in a commercial, coin-operated amusement or vending business where the owner, operator or user of the machine will incur a use or occupation tax liability. The certificates shall be retained by the retailer and shall be made available to the Department for inspection or audit.

2) If all purchases are for qualifying vending machines or replacement parts as described in this Section for vending machines used to prepare and serve hot food and beverages, a purchaser may provide a blanket exemption certificate that specifies that all purchases are exempt.

3) A purchaser who buys both exempt and non-exempt machines and replacement parts is authorized to give an exemption certificate in which he certifies that a certain percentage of his purchases are for machines that prepare and serve hot food and beverage items and are therefore nontaxable.

DEPARTMENT OF REVENUE
NOTICE OF PROPOSED AMENDMENTS

ascertainable delivery charges based upon different zones (i.e., delivery within zone 1 is \$100, delivery within zone 2 is \$300, etc.) for the delivery of gravel by the seller to the purchaser constitutes sufficient documentation that demonstrates delivery of gravel by the seller at the purchase price, plus an ascertainable delivery charge. While a separate and distinct contract for the delivery of the gravel does not exist between the seller and the purchaser, the zone map is sufficient to demonstrate a separate agreement for the delivery of the gravel. Delivery charges are deemed to be agreed upon separately from the selling price of the tangible personal property being sold so long as the seller requires a separate charge for delivery and so long as the charges designated as transportation or delivery or shipping and handling are actually reflective of the costs of such shipping, transportation or delivery. To the extent that such charges exceed the costs of shipping, transportation or delivery, the excess charges are subject to tax. The best evidence that transportation or delivery charges were agreed to separately and apart from the selling price is a separate and distinct contract for transportation or delivery. However, documentation which demonstrates that the purchaser had the option of taking delivery of the property at the seller's location for the agreed purchase price or having delivery made by the seller for the agreed purchase price plus an ascertained or ascertainable delivery charge, will suffice.

1) Mail order delivery charges are deemed to be agreed upon separately from the selling price of the tangible personal property being sold so long as the mail order form requires a separate charge for delivery and so long as the charges designated as transportation, delivery or shipping and handling are actually reflective of the costs of such shipping, transportation, delivery. To the extent that such charges exceed the costs of shipping, transportation or delivery, the excess charges are subject to tax.

2) Internet order delivery charges are deemed to be agreed upon separately from the selling price of the tangible personal property being sold so long as the Internet order form requires a separate charge for delivery and so long as the charges designated as transportation or delivery or shipping and handling are actually reflective of the costs of such shipping, transportation or delivery. To the extent that such charges exceed the costs of shipping, transportation or delivery, the excess charges are subject to tax.

3) Telephone order delivery charges are deemed to be agreed upon separately from the selling price of the tangible personal property being sold so long as documentation exists that provides for a separate charge for delivery and so long as the charges designated as delivery or shipping and handling charges are actually reflective of such delivery or shipping and handling. To the extent that such charges exceed the costs of shipping,

DEPARTMENT OF REVENUE
NOTICE OF PROPOSED AMENDMENTS

(Source: Amended at 26 Ill. Reg. _____, effective _____)

Section 130.415 Transportation and Delivery Charges

a) Transportation and delivery charges are considered to be freight, express, mail, truck or other carrier, conveyance or delivery expenses. These charges are also many times designated as shipping and handling charges.

b) The answer to the question of whether or not a seller, in computing his Retailers' Occupation Tax liability, may deduct, from his gross receipts from sales of tangible personal property at retail, amounts charged by him to his customers on account of his payment of transportation or delivery charges in order to secure delivery of the property to such customers, or on account of his incurring expense in making such delivery himself, depends not upon the separate billing of such transportation or delivery charges or expense, but upon whether the transportation or delivery charges are included in the selling price of the property which is sold or whether the seller and the buyer agree contract separately for such transportation or delivery charges by not including such charges in such selling price. In addition, charges for transportation and delivery must not exceed the costs of transportation or delivery. If those charges do exceed the cost of delivery or transportation, the excess amount is subject to tax.

c) If such transportation or delivery charges are included in the selling price of the tangible personal property which is sold, the transportation or delivery expense is an element of cost to the seller within the meaning of Section 1 of the Retailers' Occupation Tax Act, and may not be deducted by the seller in computing his Retailers' Occupation Tax liability.

d) If the seller and the buyer agree upon the transportation or delivery charges separately from the selling price of the tangible personal property which is sold, then the cost of the transportation or delivery service is not a part of the "selling price" of the tangible personal property which is sold, but instead is a service charge, separately contracted for, and need not be included in the figure upon which the seller computes his Retailers' Occupation Tax liability. The best evidence that transportation or delivery charges were agreed to separately and apart from the selling price is a separate and distinct contract for transportation or delivery. A separate listing of transportation or delivery charges on an invoice by itself, is insufficient. However, documentation that demonstrates that the purchaser had the option of taking delivery of the property at the seller's location, for the agreed purchase price, or having delivery made by the seller for the agreed purchase price, plus an ascertained or ascertainable delivery charge, will suffice. For example, a zone map that is posted at a quarry and that reflects

DEPARTMENT OF REVENUE

NOTICE OF PROPOSED AMENDMENTS

transportation or delivery, the excess charges are subject to tax. Such documentation, for example, includes, but is not limited to, an order form that requires a separate charge for delivery in the catalog from which the customer is ordering.

- 4) When a customer views an item of tangible personal property on a cable television shopping network and places an order by telephone, the shipping and handling charges are deemed to be agreed upon separately from the selling price of the tangible personal property being sold so long as the cable television seller can demonstrate on audit that the television screen on which orders are solicited showed shipping and handling as a separate charge. To the extent that such charges exceed the costs of shipping, transportation or delivery, the excess charges are subject to tax.

e) Incoming Transportation Costs

Transportation or delivery charges paid by a seller in acquiring property for sale are merely costs of doing business to the seller and may not be deducted by such seller in computing his Retailers' Occupation Tax liability, even though he passes such costs on to his customers by quoting and billing such costs separately from the selling price of tangible personal property which he sells. The same is true of transportation or delivery charges paid by the seller in moving property to some point from which the property (when subsequently sold) will be delivered or shipped to the purchaser.

(Source: Amended at 26 Ill. Reg. _____, effective _____)

SUBPART E: RETURNS

Section 130.535 Payment of the Tax, Including Quarter Monthly Payments in Certain Instances

- a) Except as noted hereinafter, at the same time that a tax return required by the provisions of the Act is filed with the Department, the taxpayer shall pay the tax that is due with such return to the Department.
- b) Before October 1, 2000, if the taxpayer's average monthly tax liability to the Department under the Retailers' Occupation Tax Act, the Use Tax Act, the Service Occupation Tax Act, the Service Use Tax Act, excluding any liability for prepaid sales tax to be remitted in accordance with Section 2d of the Act, was \$10,000 or more during the preceding 4 complete calendar quarters, he shall file a return with the Department each month by the 20th day of the month next following the month during which such tax liability is incurred and shall make payments to the Department on or before the 7th, 15th, 22nd and last day of the month during which such liability is incurred. If the month during which such tax liability is incurred begins on or after January

DEPARTMENT OF REVENUE

NOTICE OF PROPOSED AMENDMENTS

1, 1988 and prior to January 1, 1989, each payment shall be in an amount equal to 22.5% of the taxpayer's actual liability for the month or 25% of the taxpayer's liability for the same calendar month of the preceding year. If the month during which such tax liability is incurred begins on or after January 1, 1989, and prior to January 1, 1996, each payment shall be in an amount equal to 22.5% of the taxpayer's actual liability for the month or 25% of the taxpayer's liability for the same calendar month of the preceding year or 100% of the taxpayer's actual liability for the quarter monthly reporting period. If the month during which such tax liability is incurred begins on or after January 1, 1996, each payment shall be in an amount equal to 22.5% of the taxpayer's actual liability for the month or 25% of the taxpayer's liability for the same calendar month of the preceding year. The amount of such payments shall be credited against the final tax liability of the taxpayer's return for that month. Prior to January 1, 1999, if any such payment is not paid at the time or in the amount required in this subsection, then the taxpayer's 2%, 2.1% or 1.75% vendors' discount shall be reduced by 2%, 2.1% or 1.75% of the difference between the minimum amount due as a payment and the amount of such quarter monthly payment actually and timely paid, and the taxpayer shall be liable for penalties and interest on such difference except insofar as the taxpayer has previously made payments for that month to the Department in excess of the minimum payments previously due as provided in this Section. Beginning on and after January 1, 1999, if any such payment is not paid at the time or in the amount required in this subsection, then the taxpayer shall be liable for penalties and interest on the difference between the minimum amount due as a payment and the amount of such quarter monthly payment actually and timely paid, except insofar as the taxpayer has previously made payments for that month to the Department in excess of the minimum payments previously due as provided in this Section.

On and after October 1, 2000, if the taxpayer's average monthly tax liability to the Department under the Act, the Use Tax Act, the Service Occupation Tax Act, and the Service Use Tax Act, excluding any liability for prepaid sales tax to be remitted in accordance with Section 2d of the Act, was \$20,000 or more during the preceding 4 complete calendar quarters, he shall file a return with the Department each month by the 20th day of the month next following the month during which such tax liability is incurred and shall make payment to the Department on or before the 7th, 15th, 22nd and last day of the month during which such liability is incurred. (Section 3 of the Act)

c)

Before October 1, 2001, without regard to whether a taxpayer is required to make quarter monthly payments as specified above, any taxpayer who is required by Section 2d of this Act to collect and remit prepaid taxes and has collected prepaid taxes which average in excess of \$25,000 per month during the preceding 2 complete calendar quarters, shall file a return with the Department as required by Section 2f and shall make payments to the Department on or before the

DEPARTMENT OF REVENUE

NOTICE OF PROPOSED AMENDMENTS

requested by the taxpayer, issue to the taxpayer a credit memorandum, which may be submitted by the taxpayer to the Department in payment of tax liability subsequently to be remitted by the taxpayer to the Department or be assigned by the taxpayer to a similar taxpayer under the Retailers' Occupation Tax Act, the Use Tax Act, the Service Occupation Tax Act or the Service Use Tax Act. If no such request is made, the taxpayer may credit such excess payment against tax liability subsequently to be remitted to the Department under the Act, the Use Tax Act, the Service Occupation Tax Act or the Service Use Tax Act. If the Department subsequently determines that all or any part of the credit taken was not actually due to the taxpayer, the taxpayer's 2.1% and 1.75% vendor's discount shall be reduced by 2.1% or 1.75% of the difference between the credit taken and that actually due, and that taxpayer shall be liable for penalties and interest on such difference.

e) For the purposes of this Section, the phrase "preceding 4 complete calendar quarters" means the preceding 4 complete calendar quarters for which returns would have been filed or should have been filed for the last month of the 4 quarter period since, until then, the making of the required computations for the 4 quarter period would be impossible. For example, the preceding 4 complete calendar quarters with reference to a November 1, 1976, date would actually have ended June 30, 1976, since most returns for the last month of that 4 quarter period would not have to have been filed until July 31, 1976, and the preceding 4 complete calendar quarters with reference to a July 1, 1977, date would actually end March 31, 1977, since most returns for the last month of that 4 quarter period would not have to be filed until April 30, 1977. The calendar quarters are January through March, April through June, July through September and October through December.

f) Beginning October 1, 1993, a taxpayer who has an average monthly tax liability of \$150,000 or more shall make all payments required by rules of the Department (see 86 Ill. Adm. Code 750 "Payment of Taxes by Electronic Funds Transfer") by electronic funds transfer. Beginning October 1, 1994, a taxpayer who has an average monthly tax liability of \$100,000 or more shall make all payments required by rules of the Department by electronic funds transfer. Beginning October 1, 1995, a taxpayer who has an average monthly tax liability of \$50,000 or more shall make all payments required by rules of the Department by electronic funds transfer.

g) Beginning October 1, 2000, a taxpayer who has an annual tax liability of \$200,000 or more shall make all payments required by rules of the Department by electronic funds transfer (see 86 Ill. Adm. Code 750). The term "annual tax liability" shall be the sum of the taxpayer's liabilities under the Retailers' Occupation Tax Act, and all other State and local occupation and use tax laws administered by the Department, for the immediately preceding calendar year. (Section 3 of the Act)

DEPARTMENT OF REVENUE

NOTICE OF PROPOSED AMENDMENTS

7th, 15th, 22nd and last day of the month during which such liability is incurred. If the month during which such tax liability is incurred begins on or after January 1, 1987, each payment shall be in an amount equal to 22.5% of the taxpayer's actual liability for the month or 26.25% of the taxpayer's liability for the same calendar month of the preceding year. The amount of such quarter monthly payments shall be credited against the final tax liability of the taxpayer's return for that month filed under this Section or Section 2f, as the case may be. Once applicable, the requirement of the making of quarter monthly payments to the Department pursuant to this paragraph shall continue until such taxpayer's average monthly prepaid tax collections during the preceding 2 complete calendar quarters is \$25,000 or less. If any such quarter monthly payment is not paid at the time or in the amount required, the taxpayer shall be liable for penalties and interest on such difference, except insofar as the taxpayer has previously made payments for that month in excess of the minimum payments previously due. (Section 3 of the Act)

On and after October 1, 2001, without regard to whether a taxpayer is required to make quarter monthly payments as specified above, any taxpayer who is required by Section 2d of the Act to collect and remit prepaid taxes and has collected prepaid taxes that average in excess of \$20,000 per month during the preceding 4 complete calendar quarters shall file a return with the Department as required by Section 2f and shall make payments to the Department on or before the 7th, 15th, 22nd and last day of the month during which the liability is incurred. Each payment shall be in an amount equal to 22.5% of the taxpayer's actual liability for the month or 25% of the taxpayer's liability for the same calendar month of the preceding year. The amount of the quarter monthly payments shall be credited against the final tax liability of the taxpayer's return for that month filed under this Section or Section 2f, of the Act as the case may be. Once applicable, the requirement of the making of quarter monthly payments to the Department pursuant to this paragraph shall continue until the taxpayer's average monthly prepaid tax collections during the preceding 4 complete calendar quarters (excluding the month of highest liability and the month of lowest liability) is less than \$19,000 or until such taxpayer's average monthly liability to the Department as computed for each calendar quarter of the 4 preceding complete calendar quarters is less than \$20,000. If any such quarter monthly payment is not paid at the time or in the amount required, the taxpayer shall be liable for penalties and interest on such difference, except insofar as the taxpayer has previously made payments for that month in excess of the minimum payments previously due. (Section 3 of the Act)

d) If any such payment or deposit provided for herein exceeds the taxpayer's present and probable future liabilities under the Retailers' Occupation Tax Act, the Use Tax Act, the Service Occupation Tax Act and the Service Use Tax Act, the Department shall, if

DEPARTMENT OF REVENUE

NOTICE OF PROPOSED AMENDMENTS

(Source: Amended at 26 Ill. Reg. _____, effective _____)

SUBPART Q: NOTICE OF SALES OF GOODS IN BULK

Section 130.1701 Bulk Sales: Notices of Sales of Business Assets

a) If any taxpayer, outside the usual course of his business, sells or transfers the major part of any one or more of:

- 1) the stock of goods which he is engaged in the business of selling, or
- 2) the furniture or fixtures, or
- 3) the machinery and equipment, or
- 4) the real property of any business that is subject to the provisions of the Act,

the purchaser or transferee of such assets shall, no later than 10 days after the sale or transfer, file a notice of sale or transfer of business assets with the Chicago Office of the Department disclosing the name and address of the seller or transferor, the name and address of the purchaser or transferee, the date of the sale or transfer, a copy of the sales contract and financing agreements that shall include a description of the property sold, the amount of the purchase price or a statement of other consideration for the sale or transfer, the terms for payment of the purchase price and such other information as the Department may reasonably require. If the purchaser or transferee fails to file the above-described report of sale with the Department within the prescribed time, the purchaser or transferee shall be personally liable for the amount owed under this Section by the seller or transferor to the Department up to the amount of the reasonable value of the property acquired by the purchaser or transferee. The seller or transferor shall pay the Department the amount of tax, penalty and interest (if any) due from him under the Act up to the date of the payment of tax. The seller or transferor, or the purchaser or transferee, at least 10 days before the date of the sale or transfer, may notify the Department of the intended sale or transfer and request the Department to audit the books and records of the seller or transferor or to do whatever else may be necessary to determine how much the seller or transferor owes to the Department under the Act up to the date of the sale or transfer. The Department shall take such steps as may be appropriate to comply with the request.

b) Any order issued by the Department pursuant to the Act and this Section to withhold from the purchase price shall be issued within 10 days after the Department receives notification of a sale as provided in the Act and this Section. The purchaser or transferee shall withhold such portion of the purchase price as may be directed by the Department, but not to exceed a minimum amount varying by type of business plus twice the outstanding unpaid liabilities and twice the

DEPARTMENT OF REVENUE

NOTICE OF PROPOSED AMENDMENTS

average liability of preceding filings times the number of unfiled returns to cover the amount of all tax, penalty and interest due and unpaid by the seller or transferor under the Act or, if the payment of money or property is not involved, shall withhold the performance of the condition that constitutes the consideration for the sale or transfer. Within 60 days after the issuance of the initial order to withhold, the Department shall provide written notice to the purchaser or transferee of the actual amount of all taxes, penalties and interest then due and whether or not additional amounts may become due as a result of unfiled returns, pending assessments and audits not completed. The purchaser or transferee shall continue to withhold the amount directed to be withheld by the initial order or to withhold the performance of the condition which constitutes the consideration for the sale or transfer until the purchaser or transferee receives from the Department a certificate showing that such tax, penalty and interest have been paid or a certificate from the Department showing that no tax, penalty or interest is due from the seller or transferor under the Act.

c) The purchaser or transferee is relieved of any duty to continue to withhold from the purchase price and of any liability for tax, penalty or interest due under the Act from the seller or transferor if the Department fails to notify the purchaser or transferee in the manner provided in this Section of the amount to be withheld within 10 days after the sale or transfer has been reported to the Department or within 60 days after issuance of the initial order to withhold as the case may be. The Department shall have the right to determine amounts claimed on an estimated basis to allow for non-filed periods, pending assessments and audits not completed. However, the purchaser or transferee shall be personally liable only for the actual amount due when determined.

d) If the seller or transferor fails to pay the tax, penalty and interest (if any) due from him under the Act and the Department makes timely claim therefor against the purchaser or transferee as provided in subsection (b), then the purchaser or transferee shall pay the amount so withheld from the purchase price to the Department. If the purchaser or transferee fails to comply with the requirements of this Section under the Act, the purchaser or transferee shall be personally liable to the Department for the amount owed under the Act by the seller or transferor to the Department up to the amount of the reasonable value of the property acquired by the purchaser or transferee.

e) Any person who shall acquire any property or rights thereto which, at the time of such acquisition, is subject to a valid lien in favor of the Department shall be personally liable to the Department for a sum equal to the amount of taxes secured by such lien but not to exceed the reasonable value of such property acquired by him.

f) Examples of situations where bulk sales reporting is required:

- 1) When a store selling clothing and shoes sells the clothing

DEPARTMENT OF REVENUE

NOTICE OF PROPOSED AMENDMENTS

inventory of the business to another entity, bulk sales reporting is required.

- 2) When a company sells its business on a contract for deed basis, bulk sales reporting is required when the contract is entered into.

- g) Examples of situations where bulk sales reporting is not required:

- 1) When a corporation is merged into another corporation pursuant to the Business Corporation Act, there are no bulk sales reporting requirements because the surviving corporation retains all of the liabilities of the merged corporation.

- 2) When one or more corporations are consolidated into a new corporation pursuant to the Illinois Business Corporation Act, there are no bulk sales reporting requirements because the new corporation retains all of the liabilities of the consolidated corporations.

- 3) A repossession of equipment and inventory by a lender upon default by a borrower does not constitute a transfer within the meaning of the Bulk Sales provisions of the Act. For example, when a company is in default on a loan for business furniture and fixtures and the holder of the security interest forecloses and enters the business to repossess the furniture and fixtures, bulk sales reporting is not required.

- 4) A transfer of the majority of assets from one location to another location where a business has multiple locations and operates the locations under the same Certificate of Registration number is not a transfer that requires bulk sales reporting

(Source: Amended at 26 Ill. Reg. _____, effective _____)

SUBPART S: SPECIFIC APPLICATIONS

Section 130.2004 Sales to Nonprofit Arts or Cultural Organizations

- a) Between August 6, 1999 and June 30, 2001, notwithstanding the fact that sales may be at retail, the Retailers' Occupation Tax does not apply to sales of tangible personal property to a not-for-profit arts or cultural organization that establishes that it has received an exemption under Section 501(c)(3) of the Internal Revenue Code and that is organized and operated primarily for the presentation or support of arts or cultural programming, activities, or services. (Section 2-5(9) of the Act)
- b) On and after July 1, 2001, the Retailers' Occupation Tax does not apply to sales of tangible personal property to a not-for-profit arts or cultural organization that establishes that it has received an exemption under Section 501(c)(3) of the Internal Revenue Code and that is organized and operated primarily for the presentation or support of arts or cultural programming, activities, or services. An

DEPARTMENT OF REVENUE

NOTICE OF PROPOSED AMENDMENTS

entity otherwise eligible for this exemption shall not make tax-free purchases unless it has an active identification number issued by the Department. (Section 2-5(9) of the Act)

- 1b) Only nonprofit organizations that are organized and operated primarily for the presentation or support of arts or cultural programming, activities, or services can qualify for this exemption from sales tax. To demonstrate qualification, an organization must be operated so that ~~devote-an-identifiable portion--of its proceeds and or activities in their totality are primarily devoted to the presentation or support of arts or cultural programming, activities, or services.~~ The fact that an organization is organized and operated primarily for the presentation or support of arts or cultural programming, activities, or services must also be reflected in its organizational documents. Organizations are required to ~~Per-se~~ ~~of-administration--of--the-exemption7-organizations-should apply for and obtain a tax exemption identification number.~~ To establish eligibility for this exemption, an organization should submit the following documents to the Illinois Department of Revenue:

- A1) Copy of the Internal Revenue Service letter under which it received an exemption under Section 501(c)(3) of the Internal Revenue Code.
- B2) If incorporated, copy of Articles of Incorporation.
- C3) If unincorporated, copy of organization's Charter or Constitution.
- D4) Copy of By-laws.
- E5) A narrative explaining purposes, functions and activities of the organization.
- F6) Copy of brochures or other printed material explaining the purposes, functions and activities of the organization.
- G7) Copy of most recent financial statement.
- 2c) The information noted in subsections ~~subsection (b)(1)(A)-(G)~~ will allow the Department to determine ~~identify~~ that the organization qualifies for the nonprofit arts or cultural organization exemption from sales tax. If an organization does qualify, the Department will issue an exemption identification number that the organization can provide to vendors. Nonprofit arts and cultural organizations are required to obtain this number in order to make tax-free purchases. ~~Although-nonprofit arts-and-cultural-organizations-are-not-required-to-obtain--this number--receipt--of-a-number-is-strongly-recommended--because-the exemption-number-will-serve-as-the-documentation-that-vendors-are required-to-maintain-under-Section-7-of-the-Act-for-exempt-sales--Unless--an-organization--obtains--an-exemption--identification number--retailers--may-decide-not-to-allow-a-purchase-to-be-made tax-free-~~ The exemption applies to purchases of tangible personal property invoiced to the organization that will be used

DEPARTMENT OF REVENUE

NOTICE OF PROPOSED AMENDMENTS

in furtherance of the organization's purposes. The exemption does not extend to purchases of tangible personal property made by individual members or officers of the organization for their own use.

3d) An exempt nonprofit arts or cultural organization must have as the majority of its purposes or activities the presentation or support of arts or cultural programming, activities or services. By way of illustration and not limitation, the following not-for-profit purposes or activities are examples:

A1) Presenting or supporting artists and their works.
B2) Presenting or supporting musical performances, including instrumental and choral.

C3) Presenting or supporting the dramatic arts.

D4) Preserving and exhibiting to the general public objects, artifacts, or displays of historical, scientific or cultural value.

E5) Promoting and increasing the musical knowledge, appreciation, experience and performing ability of young people and of the general public, by establishing, maintaining and operating a youth symphony orchestra.

F6) Operating a school of dance, music, painting or sculpture.

G7) Conducting festivals on a regular basis to provide filmmakers with an opportunity to display their films.

H8) Educating young people and the general public about the arts or humanities through museum exhibits, classes, lectures and performances.

I9) Producing, presenting or distributing displays of visual or media arts such as photographs, paintings, sculptures, videos or films.

J10) Preparing, publishing and distributing a journal or other literature on a regular basis that provides an opportunity for authors to have their articles or stories published.

(Source: Amended at 26 Ill. Reg. _____, effective _____)

Section 130.2135 Vending Machines

a) Vending Machine Sales -- To Whom Taxable
Except as provided in subsection **Subsection (e)** of this Section, where tangible personal property is sold to users or consumers by means of vending machines, the person owning the property contained in such vending machines makes final sales of such property for use or consumption and becomes liable for Retailers' Occupation Tax.

b) When Owner of Establishment is Taxable
When vending machines are placed in an establishment, the person operating such establishment sometimes owns the articles sold through the vending machines and makes collection of the coins deposited in

DEPARTMENT OF REVENUE

NOTICE OF PROPOSED AMENDMENTS

the machines in payment for articles so sold. Under such conditions, such person must report and pay the tax measured by his gross receipts from sales made through such vending machines.

When Owner of Establishment is Not Taxable

c) However, if the person operating such establishment has no control over or right of access to the articles in vending machines located on his premises, and if he has no access to the gross receipts in such machines and no right to remove such receipts without the consent of the owner of such machines, he will not be considered to be the owner of the articles sold through such vending machines and so will not be the person who incurs Retailers' Occupation Tax liability with respect to such vending machine sales.

d) When Person Other Than Owner of Establishment is Taxable

When someone other than the owner of the establishment owns the property that is sold through the vending machines, such owner of such property is liable for tax measured by his gross receipts from such sales, without deducting from such receipts any amounts paid as commission.

e) Exemption for Bulk Sales of Merchandise From Vending Machine for-14
Effective July 27, 1971 through December 31, 2001, the sale of merchandise from a bulk vending machine for 1¢ is exempt from the Retailers' Occupation Tax. On and after January 1, 2002, the sale of merchandise from a bulk vending machine for 50¢ or less is exempt from

the Retailers' Occupation Tax. Prior to January 1, 2002, "bulk bulk vending machine" means a nonelectrically operated vending machine, containing unsorted confectios, nuts or other merchandise which, when a coin of a denomination not larger than 1¢ is inserted, are dispensed in equal portions, at random and without selection by the customer. On and after January 1, 2002, "bulk vending machine" means a vending machine, containing unsorted confectios, nuts, toys, or other items designed primarily to be used or played with by children which, when a coin or coins of a denomination not larger than \$0.50 are inserted, are dispensed in equal portions, at random and without selection by the customer. (Section 1 of the Act)

(Source: Amended at 26 Ill. Reg. _____, effective _____)

DEPARTMENT OF STATE POLICE
NOTICE OF PROPOSED RULES

- A) Types of small businesses, small municipalities and not for profit corporations affected: None
- B) Reporting, bookkeeping or other procedures required for compliance: None
- C) Types of professional skills necessary for compliance: None
- 13) Regulatory Agenda on which this rulemaking was summarized: This rule was not included on either of the 2 most recent regulatory agendas because: This rulemaking was inadvertently omitted. A recent line-of-duty death caused the Department to note this lack of rules, and we are proceeding as promptly as possible.

The full text of the Proposed Rules begins on the next page:

DEPARTMENT OF STATE POLICE
NOTICE OF PROPOSED RULES

- 1) Heading of The Part: Burial Benefit for State Police Officers Killed in the Line of Duty
- 2) Code Citation: 20 Ill. Adm. Code 1216
- 3) Section Numbers:
1216.10 New Section
1216.20 New Section
1216.30 New Section
- 4) Statutory Authority: Implementing and authorized by Section 12.2 of the State Police Act [20 ILCS 2610/12.2] and authorized by Section 2605-15 of the Civil Administrative Code of Illinois [20 ILCS 2605/2605-15].
- 5) A Complete Description of the Subjects and Issues Involved: This rulemaking will establish procedures for the payment of burial benefits for State Police officers killed in the line of duty.

- 6) Will these proposed rules replace any emergency rules currently in effect?
No

- 7) Does this rulemaking contain an automatic repeal date? No

- 8) Do these proposed rules contain incorporations by reference? No

- 9) Are there any other proposed rules pending on this Part? No

- 10) Statement of Statewide Policy Objectives: These rules will not require a local government to establish, expand, or modify its activities in such a way as to necessitate additional expenditures from local revenues.

- 11) Time, place and manner in which interested persons may comment on this proposed rulemaking: Within 45 days after the date of publication of this Notice, any interested person may submit comments, data, views, or argument regarding the proposed rules. The submissions must be in writing and directed to:

Mr. James W. Redlich
Chief Legal Counsel
Illinois State Police
124 East Adams Street, Room 102
Post Office Box 19461
Springfield, Illinois 62794-9461
Telephone: (217) 782-7658
Fax: (217) 524-5743

- 12) Initial Regulatory Flexibility Analysis:

DEPARTMENT OF STATE POLICE

NOTICE OF PROPOSED RULES

TITLE 20: CORRECTIONS, CRIMINAL JUSTICE, AND LAW ENFORCEMENT
CHAPTER II: DEPARTMENT OF STATE POLICE

PART 1216

BURIAL BENEFIT FOR STATE POLICE OFFICERS
KILLED IN THE LINE OF DUTY

Section

1216.10 Introduction
1216.20 Definitions
1216.30 Procedures

AUTHORITY: Implementing and authorized by Section 12.2 of the State Police Act [20 ILCS 2610/12.2] and authorized by Section 2605-15 of the Civil Administrative Code of Illinois [20 ILCS 2605/2605-15].

SOURCE: Adopted at 26 Ill. Reg. _____, effective _____.

Section 1216.10 Introduction

The purpose of this Part is to establish procedures for the payment of burial benefits for State Police officers killed in the line of duty.

Section 1216.20 Definitions

"Department" means the Department of State Police.

"Killed in the line of duty" means losing one's life as a result of injury received in the active performance of one's duties as a State Police officer, if the death occurs within one year from the date the injury was received.

Section 1216.30 Procedures

- a) Upon written request, supported by related documentation, the Department shall pay directly or reimburse, up to a maximum of \$10,000, the burial expenses of each State Police officer who is killed in the line of duty after June 30, 1997, excluding death resulting from the willful misconduct or intoxication of the officer.
- b) The payments provided for in this Section shall be paid out of monies appropriated to the Department for the personal services of State Police officers.
- c) Payments shall not be made that duplicate benefits received from other sources.
- d) Payments shall not be made with respect to requests made more than one year after the related death.

STATE BOARD OF EDUCATION

NOTICE OF ADOPTED AMENDMENT

1) Heading of the Part: Calculation of Excess Cost Under Section 18-3 of the School Code

2) Code Citation: 23 Ill. Adm. Code 140

3) Section Number: 140.30
Adopted Action: Amendment

4) Statutory Authority: 105 ILCS 5/18-3

5) Effective Date of Rules: October 22, 2001

6) Does this rulemaking contain an automatic repeal date? No

7) Does this rulemaking contain incorporations by reference? No

8) A copy of the adopted amendment, including all materials incorporated by reference is on file in the agency's principal office and is available for public inspection.

9) Notice of Proposal Published in Illinois Register: May 25, 2001; 25 Ill. Reg. 6581

10) Has JCAR issued a Statement of Objections to this rulemaking? No

11) Difference(s) between proposal and final version: None

12) Have all the changes agreed upon by the agency and JCAR been made as indicated in the agreements issued by JCAR? No changes were requested by JCAR, and no agreement letter was issued.

13) Will this amendment replace an emergency amendment currently in effect? No

14) Are there any amendments pending on this Part? No

15) Summary and Purpose of Amendment: This set of rules deals with the reimbursement that is available to school districts that provide educational services to groups of students who reside in settings such as orphanages and detention centers. P.A. 91-764 amended Section 18-3 of the School Code to provide that a district's failure to certify its claim for a particular year by July 31 would constitute the forfeiture of that claim. Section 140.30 sets forth the requirements that apply to the submission of claims and therefore needs to be amplified with this information.

16) Information and questions regarding this adopted amendment shall be directed to:

STATE BOARD OF EDUCATION

NOTICE OF ADOPTED AMENDMENT

Marcia Sailsbury
Funding and Disbursement Services
Illinois State Board of Education
100 North First Street
Springfield, Illinois 62777-0001
217/782-5256

The full text of the adopted amendment begins on the next page:

STATE BOARD OF EDUCATION

NOTICE OF ADOPTED AMENDMENT

TITLE 23: EDUCATION AND CULTURAL RESOURCES
SUBTITLE A: EDUCATION
CHAPTER I: STATE BOARD OF EDUCATION
SUBCHAPTER c: FINANCE

PART 140

CALCULATION OF EXCESS COST UNDER SECTION 18-3 OF THE SCHOOL CODE

Section

140.10	Purpose and Applicability
140.20	Allowable Costs
140.30	Requirements for Submission of Claims
140.40	Calculation of Reimbursement

AUTHORITY: Implementing and authorized by Section 18-3 of the School Code [105 ILCS 5/18-3].

SOURCE: Adopted 2012 at 23 Ill. Reg. 7882, effective July 1, 1999; amended at 25 Ill. Reg. 14123, effective OCT 2 2001.

Section 140.30 Requirements for Submission of Claims

Each school district shall certify to the State Superintendent of Education, using a format specified by the State Superintendent, its report of claims for tuition payments no later than July 31. Failure on the part of the school board to certify its claim on July 31 shall constitute a forfeiture by the district of its right to the payment of any such tuition claim for the school year just ended. (Section 18-3 of the School Code) No payment shall be made for any mailed claim that is postmarked later than July 31 of the relevant year or for any claim filed electronically (when such filing has been authorized by the State Superintendent) or otherwise delivered after that date.

a) When a district files a claim for excess costs relative to pupils who are served in a program that is provided solely on the premises of the facility where they reside or is otherwise physically separate, the claim must include:

- 1) a description of the regular program for which the district also claims reimbursement under Section 18-3 of the School Code;
- 2) a report of the expenditures incurred by the district for the regular program described pursuant to subsection (a)(1), on forms supplied by the State Superintendent of Education;
- 3) the number of pupils in average daily attendance in the regular program described in subsection (a)(1) during the term to which the claim applies;
- 4) a record for each student, indicating:
 - A) the pupil's name and date of birth,
 - B) the services provided to the pupil that are not included in or that exceed the level provided in the regular program, or
 - C) the amount, intensity, and/or frequency of the services,

STATE BOARD OF EDUCATION

NOTICE OF ADOPTED AMENDMENT

- D) the total hours of service provision, and
 E) the total cost of the services.
- b) When a district files a claim for excess costs relative to pupils who are served in the district's regular attendance centers, the claim must include:
- 1) a description of the services provided which exceed those otherwise provided within the attendance center in question, e.g., services not provided to the other students in that attendance center or services provided for more time than to other students within that attendance center; and
 - 2) a record for each student containing the information specified in subsection (a)(4) of this Section.
- c) No later than ten days after receipt of a request for additional information, a district shall submit such information as the State Superintendent of Education may require for the purposes of clarifying the basis for its claim.

(Source: Amended at 25 Ill. Reg. 14122, effective 11/12/2001)

DEPARTMENT OF NATURAL RESOURCES

NOTICE OF ADOPTED AMENDMENTS

- 1) Heading of the Part: Department Revocation Procedures
- 2) Code Citation: 17 Ill. Adm. Code 2530
- 3) Section Numbers: Adopted Action:
 2530.230 Amendment
 2530.250 Amendment
- 4) Statutory Authority: Implementing and authorized by Section 20-105 of the Fish and Aquatic Life Code of 1971 [515 ILCS 5/20-105], Section 3.36 of the Wildlife Code [520 ILCS 5/3.36], Sections 4 and 5 of the Illinois Endangered Species Protection Act [520 ILCS 10/4 and 5], Section 3B-8 of the Boat Registration and Safety Act [625 ILCS 45/3B-8] and the Illinois Administrative Procedure Act [5 ILCS 100] and authorized by Section 5-625 of the Civil Administrative Code of Illinois [20 ILCS 5/5-625], Section 1.5 of the Fish and Aquatic Life Code of 1971 [515 ILCS 5/1.5] and Section 1.4 of the Wildlife Code [520 ILCS 5/1.4].
- 5) Effective Date of Amendments: October 22, 2001
- 6) Does this rulemaking contain an automatic repeal date? No
- 7) Does this rulemaking contain incorporations by reference? No
- 8) A copy of the adopted amendments, including all material incorporated by reference is on file in the Department of Natural Resource's principal office and is available for public inspection.
- 9) Notice of Proposal Published in Illinois Register: August 3, 2001, 25 Ill. Reg. 9806
- 10) Has JCAR issued a Statement of Objections to these rules? No
- 11) Differences between proposal and final version: Section 2530.250 was added with revisions removing the "Forest Products Transportation Act" from subsection 2530.250(c).
- 12) Have all the changes agreed upon by the agency and JCAR been made as indicated in the agreements issued by JCAR? Yes
- 13) Will this rulemaking replace an emergency rule currently in effect? No
- 14) Are there any amendments pending on this Part? No
- 15) Summary and Purpose of Rulemaking: The Forest Products Transportation Act is being removed from the list of Acts for which points accumulate for a violation of those Acts. It has been determined that inclusion of the Forest Products Transportation Act within the point system for license

DEPARTMENT OF NATURAL RESOURCES
NOTICE OF ADOPTED AMENDMENTS

revocation/suspension is not necessary in that no license is required under the Forest Products Transportation Act. Thus, the accumulation of points for violations of the Forest Products Transportation Act makes little sense given that there is no license to suspend or revoke under that Act.

16) Information and questions regarding these adopted amendments shall be directed to:

Jack Price
Department of Natural Resources
524 S. Second Street, Room 430
Springfield IL 62701-1787
217/782-1809

The full text of the adopted amendments begins on the next page:

DEPARTMENT OF NATURAL RESOURCES
NOTICE OF ADOPTED AMENDMENTS

TITLE 17: CONSERVATION
CHAPTER 1: DEPARTMENT OF NATURAL RESOURCES
SUBCHAPTER f: ADMINISTRATIVE SERVICES

PART 2530
DEPARTMENT REVOCATION PROCEDURES

SUBPART A: GENERAL RULES

Section	
2530.10	Applicability
2530.20	Definitions
2530.30	Filing
2530.40	Documents
2530.50	Computation of Time
2530.60	Appearances

SUBPART B: SUMMARY REVOCATION/SUSPENSION

Section	
2530.110	Applicability (Recodified)
2530.130	Rules Proposed by Member of Public (Recodified)
2530.140	Authorization of Hearing (Recodified)
2530.150	Notice of Hearing (Recodified)
2530.160	Hearing Officer (Recodified)
2530.180	Written Submission (Recodified)
2530.190	Record (Recodified)
2530.200	Revision of Proposed Rules (Recodified)
2530.210	Filing and Publication of Final Rules (Recodified)
2530.220	Applicability
2530.230	Point System
2530.240	Points
2530.250	Groups
2530.260	Computation of Suspension Period
2530.270	Procedures
2530.280	Appeal and Hearing

SUBPART C: HEARINGS OF CONTESTED CASES

Section	
2530.310	Applicability
2530.320	Initiation of Proceedings
2530.330	Parties
2530.340	Notice and Complaint
2530.350	Service
2530.360	Notice of Hearing
2530.370	Prehearing Conferences
2530.380	Authority of Hearing Officer

DEPARTMENT OF NATURAL RESOURCES

NOTICE OF ADOPTED AMENDMENTS

1) Heading of the Part: Duck, Goose and Coot Hunting

2) Code Citation: 17 Ill. Adm. Code 590

3) Section Numbers: Adopted Action:

590.10 Amendment
590.15 Amendment
590.20 Amendment
590.25 Repealed
590.40 Amendment
590.50 Amendment
590.60 Amendment
590.80 Amendment

4) Statutory Authority: Implementing and authorized by Sections 1.3, 1.4, 1.13, 2.1, 2.2, 2.18, 2.19, 2.20, 2.23, 3.5, 3.6, 3.7, 3.8, and 3.10 of the Wildlife Code [520 ILCS 5/1.3, 1.4, 1.13, 2.1, 2.2, 2.18, 2.19, 2.20, 2.23, 3.5, 3.6, 3.7, 3.8, and 3.10], and Migratory Bird Hunting (50 CFR 20).

5) Effective Date of Amendments: October 22, 2001

6) Does this rulemaking contain an automatic repeal date? No

7) Does this amendment contain incorporations by reference? No

8) A copy of the adopted amendments, including all material incorporated by reference is on file in the Department of Natural Resource92s principal office and is available for public inspection.

9) Notice of Proposal Published in Illinois Register: 25 Ill. Reg. 9555, July 27, 2001

10) Has JCAR issued a Statement of Objections to these amendments? No

11) Differences between proposal and final version:

Section 590.10(b): "rule" and added "Part".

Section 590.10(j): added a comma following "(SIQZ)"; added a semi-colon following "p.m."; added a comma following "except"; and struck "three" and added "3".

Section 590.15(b)(5): struck "of" and added "prior to".

Sections 590.15(b)(9); 590.20(b)(1) and (3); 590.40(b)(6); 590.50(a) - Mississippi River Pool 17; 590.50(b)(9); and 590.60(b)(29)(I): struck "two" and added "2".

DEPARTMENT OF NATURAL RESOURCES

NOTICE OF ADOPTED AMENDMENTS

Sections 590.15(b)(7); 590.20(b)(3); and 590.60(b)(15)(A): struck "three" and added "3".

Section 590.20(b)(3): struck "four" and added "4".

Section 590.20(c)(2)(B): struck the comma prior to "hunters".

Section 590.20(c)(8): added a closing parenthesis after "(B)".

Section 590.40(a)(4): deleted the closing parenthesis.

Section 590.40(a)(6): underlined the opening parenthesis prior to "except".

Section 590.40(a)(13): deleted the hyphen in "3-year".

Section 590.50(a): added the following: Fulton County Goose Management Area (Wednesday, Saturday and Sunday hunting only; daily drawing at Rice Lake State Fish and Wildlife Area check station; hunting from staked blind sites only; no other use October 1 through the close of the central zone goose season).

Section 590.50(a) - Lake Sinissippi: struck "ten" and added "10".

Section 590.60(b)(3)(J) and (23)(B): changed "first-come, first-served" to "first come-first served".

Sections 590.60(b)(15)(E); 590.60(b)(29)(E); and 590.60(b)(33)(L): struck "1" and added "one".

Section 590.60(b)(19)(E)(iii): struck "first-come first-served" and added "first come-first served".

Sections 590.60(b)(22)(B)(ii) and (G): struck "one-half" and added "1/2".

Section 590.60(b)(26)(A): struck the period at the end and changed "first-come, first-served" to "first come-first served".

Section 590.60(b)(26)(G): changed "first-come, first-served" to "first come-first served".

Section 590.80(a): added a closing parenthesis after "(e)".

12) Have all the changes agreed upon by the agency and JCAR been made as indicated in the agreements? Yes

13) Will this rulemaking replace an emergency rule currently in effect? No

DEPARTMENT OF NATURAL RESOURCES

NOTICE OF ADOPTED AMENDMENTS

TITLE 17: CONSERVATION
CHAPTER I: DEPARTMENT OF NATURAL RESOURCES
SUBCHAPTER b: FISH AND WILDLIFE

PART 590

DUCK, GOOSE AND COOT HUNTING

Section	
590.10	Statewide Regulations
590.15	Duck, Goose and Coot General Hunting Regulations on Department-Owned and -Managed sites Listed in Sections 590.40 and 590.50
590.20	Permit Controlled Department Sites Only - Duck, Goose and Coot Hunting
590.25	Illinois Youth Waterfowl Hunting Permit Requirements (Repealed)
590.26	Illinois Youth Duck Hunting Permit Requirements (Repealed)
590.30	Duck, Goose and Coot General Hunting Regulations on all Department-Owned and -Managed Sites (Repealed)
590.40	Check Station Department Sites Only - Duck, Goose and Coot Hunting
590.50	Non-Check Station Department Sites Only - Duck, Goose and Coot Hunting
590.60	Various Other Department Sites - Duck, Goose and Coot Hunting
590.70	Ohio River
590.80	Early and Late Goose (all species) Hunting Regulations on Department Sites

EXHIBIT A The Non-Toxic Shot Zones of Illinois (Repealed)

AUTHORITY: Implementing and authorized by Sections 1.3, 1.4, 1.13, 2.1, 2.2, 2.18, 2.19, 2.20, 2.23, 3.5, 3.6, 3.7, 3.8, and 3.10 of the Wildlife Code [520 ILCS 5/1.3, 1.4, 1.13, 2.1, 2.2, 2.18, 2.19, 2.20, 2.23, 3.5, 3.6, 3.7, 3.8, and 3.10], and Migratory Bird Hunting (50 CFR 20, effective September 26, 1990).

SOURCE: Adopted at 5 Ill. Reg. 8857, effective August 25, 1981; emergency amendment at 5 Ill. Reg. 11386, effective October 14, 1981, for a maximum of 150 days; codified at 5 Ill. Reg. 10638; Part repealed at 6 Ill. Reg. 9647, effective July 21, 1982; new Part adopted at 6 Ill. Reg. 11865, effective September 22, 1982; amended at 7 Ill. Reg. 13229, effective September 28, 1983; emergency amendment at 7 Ill. Reg. 13948, effective October 6, 1983, for a maximum of 150 days; emergency expired March 3, 1984; amended at 8 Ill. Reg. 18968, effective September 26, 1984; amended at 9 Ill. Reg. 14242, effective September 5, 1985; peremptory amendment at 9 Ill. Reg. 15062, effective September 25, 1985; emergency amendment at 9 Ill. Reg. 15928, effective October 8, 1985, for a maximum of 150 days; emergency expired March 5, 1986; amended at 10 Ill. Reg. 16588, effective September 22, 1986; emergency amendment at 10 Ill. Reg. 17773, effective September 26, 1986, for a maximum of 150 days; emergency expired February 23, 1987; amended at 11 Ill. Reg. 10560, effective May 21, 1987; emergency amendment at 11 Ill. Reg. 15242, effective August 28, 1987, for a maximum of 150 days; emergency expired January 25, 1988; amended at 12 Ill. Reg. 12200, effective July 15, 1988; emergency amendment at 12 Ill.

DEPARTMENT OF NATURAL RESOURCES

NOTICE OF ADOPTED AMENDMENTS

- 14) Are there any amendments pending on this Part? No
- 15) Summary and Purpose of Rulemaking: This Part was amended to update shot size requirements and hunting hours, repeal Section 590.25 (regulations on youth hunts have been incorporated into Part 685), update site specific information, and list sites being opened and closed.

- 16) Information and questions regarding these adopted amendments shall be directed to:

Jack Price
Department of Natural Resources
524 S. Second Street, Room 430
Springfield IL 62701-1787
217/782-1809

The full text of the adopted amendments begins on the next page:

DEPARTMENT OF NATURAL RESOURCES

NOTICE OF ADOPTED AMENDMENTS

Reg. 16233, effective September 23, 1988, for a maximum of 150 days; emergency expired February 20, 1989; emergency amendment at 12 Ill. Reg. 22244, effective December 7, 1988, for a maximum of 150 days; emergency expired May 6, 1989; amended at 13 Ill. Reg. 10525, effective June 20, 1989; amended at 13 Ill. Reg. 14925, effective September 7, 1989; emergency amendment at 13 Ill. Reg. 16579, effective October 4, 1989, for a maximum of 150 days; emergency expired March 3, 1989; amended at 13 Ill. Reg. 17354, effective October 27, 1989; amended at 14 Ill. Reg. 638, effective January 2, 1990; amended at 14 Ill. Reg. 13529, effective August 13, 1990; emergency amendment at 14 Ill. Reg. 17029, effective September 26, 1990, for a maximum of 150 days; emergency expired February 23, 1991; amended at 15 Ill. Reg. 1487, effective January 22, 1991; amended at 15 Ill. Reg. 13293, effective September 3, 1991; emergency amendment at 15 Ill. Reg. 16745, effective November 5, 1991, for a maximum of 150 days; emergency expired April 3, 1992; amended at 16 Ill. Reg. 570, effective December 31, 1991; amended at 16 Ill. Reg. 12491, effective July 28, 1992; emergency amendment at 16 Ill. Reg. 16672, effective October 15, 1992, for a maximum of 150 days; emergency expired March 9, 1993; emergency amendment at 16 Ill. Reg. 18851, effective November 17, 1992, for a maximum of 150 days; emergency expired April 11, 1993; emergency amendment at 17 Ill. Reg. 1658, effective January 20, 1993, for a maximum of 150 days; emergency expired June 14, 1993; amended at 17 Ill. Reg. 16443, effective September 27, 1993; emergency amendment at 17 Ill. Reg. 18867, effective October 14, 1993, for a maximum of 150 days; emergency expired March 13, 1994; amended at 18 Ill. Reg. 15161, effective June 21, 1994; emergency amendment at 18 Ill. Reg. 15161, effective September 27, 1994, for a maximum of 150 days; emergency expired February 23, 1995; amended at 19 Ill. Reg. 13209, effective September 11, 1995; amended at 20 Ill. Reg. 754, effective December 29, 1995; recodified by changing agency name from Department of Conservation to Department of Natural Resources at 20 Ill. Reg. 9389; amended at 20 Ill. Reg. 12417, effective August 30, 1996; amended at 21 Ill. Reg. 578, effective December 30, 1996; amended at 21 Ill. Reg. 11713, effective August 12, 1997; amended at 22 Ill. Reg. 2182, effective January 2, 1998; amended at 22 Ill. Reg. 15961, effective August 24, 1998; amended at 22 Ill. Reg. 21881, effective December 3, 1998; emergency amendment at 23 Ill. Reg. 3092, effective March 10, 1999, for a maximum of 150 days; emergency expired August 6, 1999; amended at 23 Ill. Reg. 11195, effective August 26, 1999; emergency amendment at 23 Ill. Reg. 14640, effective December 13, 1999, for a maximum of 150 days; emergency expired May 10, 2000; amended at 24 Ill. Reg. 12517, effective August 7, 2000; amended at 25 Ill. Reg. 14135, effective August 22, 2001.

Section 590.10 Statewide Regulations

- a) Pursuant to Section 2.18 of the Wildlife Code [520 ILCS 5/2.18], it shall be unlawful to take, possess, transport, or use migratory waterfowl except during such period of time and in such manner and numbers as may be provided in the Federal "Migratory Bird Treaty Act" (16 USC 703-711), the "Migratory Bird Hunting Stamp Act" (16 USC 1718 et seq.), and annual "Rules and Regulations for Migratory Bird

DEPARTMENT OF NATURAL RESOURCES

NOTICE OF ADOPTED AMENDMENTS

Hunting" (50 CFR 20 and 21) (collectively referred to in this Part as federal regulations) (no incorporation in this Part includes later amendments or editions), or contrary to any State regulations made in the Wildlife Code.

b) The regulations in Section 2.33 of the Wildlife Code on illegal devices shall apply to this Part rule, unless federal regulations are more restrictive.

c) Duck, goose and coot regulations are in accordance with Federal Regulations (50 CFR 20) unless the regulations in this Part are more restrictive.

d) It shall be unlawful while attempting to take migratory waterfowl or coots to have in possession any shotgun shells not approved as non-toxic by federal regulations.

e) It shall be unlawful to possess any shotgun shell loaded with a shot size larger than Bismuth BBB, tungsten-iron BB, tungsten-polymer BB, tungsten-matrix BB, tungsten-nickel-iron (HEVI-SHOT) B, or tin BBB ~~if~~ authorized via Federal Register when attempting to take waterfowl.

f) Emergency Closure

The Department of Natural Resources (Department or DNR) will close the Canada goose season giving 48 hours notice when quotas established by federal regulations are reached, when harvest in any area is excessive due to extreme weather conditions or when a serious outbreak of infectious disease occurs, such as avian cholera or duck virus enteritis.

g) Closed Areas

Closed areas, including waterfowl refuges and rest areas, may be designated at certain sites in accordance with 17 Ill. Adm. Code 510. Boundaries of these closed areas will be posted.

h) Commercial Migratory Waterfowl Hunting Area Permits

1) The holder of a permit shall forward information on harvest and hunters to the Department, by phone or on forms furnished by the Department, at times required by the Department. The Department shall give the permit holder reasonable written notice of the dates reports are required. Failure to timely supply such reports will make the permit holder subject to revocation of his permit and suspension of the privilege to hold the permit for up to 5 years.

2) On any property where the principal waterfowl harvest is wild geese, it is the permit holder's duty to ensure that not more than 5 persons occupy or attempt to take wild geese from any blind or pit at the same time during the Canada goose season.

3) The Department may assign the maximum potential Canada goose harvest (number registered pits x 5 hunters x Canada goose bag limit) to the cumulative quota zone harvest for each day a club is late in reporting.

i) Waterfowl Hunting Zones:

- 1) North Zone - That portion of the State north of a line running east from the Iowa border along Illinois Route 92 to U.S.

DEPARTMENT OF NATURAL RESOURCES

NOTICE OF ADOPTED AMENDMENTS

Interstate 280, east along U.S. Interstate 280 to U.S. Interstate 80, then east along U.S. Interstate 80 to the Indiana border.

- 2) Northern Illinois Quota Zone - DuPage, Kane, Lake, and McHenry counties, and those portions of LaSalle and Will counties north of I-80.
 - 3) Central Zone - That portion of the State south of the northern zone boundary to the Modoc Ferry route on the Mississippi River and east along the Modoc Ferry Road to Modoc Road to St. Leo's Road to Illinois Route 3, then north to Illinois Route 159, then north to Illinois Route 161, then east to Illinois Route 4, then north to U.S. Interstate 70, then east along U.S. Interstate 70 to the Bond County line, north and east along the Bond County line to Fayette County, north and east along the Fayette County line to Effingham County, east and south along the Effingham County line to U.S. Interstate 70, then east along U.S. Interstate 70 to the Indiana border.
 - 4) Central Illinois Quota Zone - Calhoun, Cass, Fulton, Jersey, Knox, Mason, Morgan, Peoria, Pike, Tazewell, and Woodford counties, as well as those portions of LaSalle, Grundy, and Will counties south of I-80.
 - 5) South Zone - From the southern boundary of the Central Zone south to the remainder of the State.
 - 6) Rend Lake Quota Zone - all lands and waters in Franklin and Jefferson Counties.
 - 7) Northeastern Illinois Canada Goose Zone - All lands and waters in the counties of Cook, DuPage, Grundy, Kane, Kendall, Lake, McHenry and Will.
 - 8) Southern Illinois Quota Zone - Alexander, Union, Williamson, and Jackson Counties.
- j) No person during the open season shall take or attempt to take wild geese prior to 1/2 hour before sunrise nor after sunset. In the Rend Lake Canada Goose Quota Zone (RLQZ) and Southern Illinois Quota Zone (SIQZ), no person shall take or attempt to take wild geese after ~~except-between-legal-opening-and~~ the hour of 3:00 p.m. except, during the last 3 three days of the Canada goose season and during any goose seasons that occur after the Canada goose season, hunting hours in the RLQZ and SIQZ shall close at sunset daily, and during any Canada Goose Season set in September, hunting hours shall close daily at sunset. During ~~and--during~~ special light goose seasons as indicated in subsection (n), statewide hunting hours shall be 1/2 hour before sunrise to 1/2 ~~close-at-one-half~~ hour after sunset daily.
- k) On any property where the principal waterfowl harvest is wild geese in the Rend Lake Quota Zone and the Southern Illinois Quota Zone, no more than 5 persons shall occupy or attempt to take wild geese from any blind or pit at the same time during the Canada goose season.
- l) The following apply in the Northern, and Central and Southern Illinois Quota Zones:
- 1) It is unlawful to hunt Canada geese during seasons after

DEPARTMENT OF NATURAL RESOURCES

NOTICE OF ADOPTED AMENDMENTS

September 15 without having in possession a current season's permit to hunt Canada geese, unless exempt from a State waterfowl stamp. Such permits are not transferrable and are not valid unless they contain the hunter's name, signature, date of birth, and the same State waterfowl stamp number that is on the State waterfowl stamp that is signed by the hunter or affixed to his/her license.

- 2) Immediately upon taking possession of a harvested Canada goose, hunters must mark with indelible ink, punch or slit the Permit to Hunt to indicate the date of kill (one date for each goose harvested) and zone where killed.
- 3) Hunters must report their kill on the same calendar day the geese are taken by calling 1-800-WETLAND (938-5263). Hunters must report the number of geese taken, date and zone where taken.
- m) Registration in the U.S. Fish and Wildlife Service Migratory Bird Harvest Information Program (HIP) is required for those persons who are required to have a hunting license before taking or attempting to take ducks, geese or coots. Instructions for registering are provided with issuance of hunting license.
- n) If 50 CFR 20 or 21 allows light goose seasons to be liberalized, snow geese, blue geese and Ross' geese may be taken in accordance with federal regulations regarding hunting hours, method of taking and bag limits through March 31.

(Source: Amended at 25 Ill. Reg. 14137, effective 301 2 2 2001)

Section 590.15 Duck, Goose and Coot General Hunting Regulations on Department-Owned and -Managed Sites Listed in Sections 590.40 and 590.50

a) Definitions

- 1) Blind site - A position within 10 feet of numbered stake where blind must be constructed. Sites shall be located and marked by the Department of Natural Resources.
- 2) Blind builder - Person who has been assigned a blind site as a result of the drawing.
- 3) Blind partner - Persons chosen by the builder to assist in construction and maintenance of the blind and to share its blind claiming and hunting privileges.
- 4) Drawing - Procedure by which blind sites are assigned.
- 5) Blind registration card - Card issued by the Department and tacked inside each blind listing names and addresses of blind builders.
- 6) Complete blind - A blind with all framework and siding constructed and in readiness for use, including final brushing.
- 7) Hunting party - An individual or group of hunters occupying a single boat, blind, or hunting site.
- 8) Dog Hide - A compartment or area within or attached to a blind

DEPARTMENT OF NATURAL RESOURCES

NOTICE OF ADOPTED AMENDMENTS

that houses a dog used to retrieve downed waterfowl.

b) Blind Construction

- 1) Blinds must be at least 4 feet x 8 feet, but no higher than 14 feet from the water surface at normal pool level, to the top of the shooting box, sturdy enough to withstand daily usage, and must be maintained in good condition by blind builders throughout the duck season. Blinds shall be numbered and that number shall be visible from the outside of the blinds. Blinds must be placed within 10 feet of assigned Department marked site.
- 2) Blinds built over water must be of platform construction with the platform constructed above normal water conditions or they may be floating blinds.
- 3) Blinds must be completed, including final brushing, 3 weeks in advance of opening date of regular duck season (except at Mississippi River Area Pools 25 and 26 blinds and final brushing must be completed 4 weeks in advance of opening date of regular duck season) after which time the Department of Natural Resources shall inspect all blinds and blind sites and issue Blind Registration Cards to those which pass inspection. Blind builders shall not gain access to Redwing Slough/Deer Lake until the day following Labor Day. Blind builders must post Blind Registration Card in the blind prior to the first day of regular duck season. If adverse weather or water conditions make compliance with this rule difficult the site superintendent or the District Wildlife Manager may grant extensions.
- 4) Sites on which blinds have not been built, as well as sites on which blinds of an unsatisfactory quality have been built, shall be reassigned to alternates selected at a drawing or by a first come-first served allocation held on a day publicly announced by the Department. All reassigned blinds must be completed, including final brushing, seven days prior to the opening date of the duck season on sites posted as being closed to trespassing 7 days prior to regular duck season. At Mississippi River Area Pools 25 and 26 reassigned blinds must be completed by sunset of the Sunday immediately preceding the opening day of regular duck season. On all other sites reassigned blinds must be completed, including final brushing, by the day before the opening day of the regular duck season.
- 5) Not more than 3 persons shall be registered for assignment of any one blind site. Blind builders shall submit partner names on a blind registration form as designated at the site drawing. After the designated time, no changes shall be accepted. As directed by the information sheet available at each site, the registration form must be filled out and returned within 30 days prior to the blind drawing date. Failure to do so shall result in forfeiture of blind.
- 6) No person shall be allowed to be a blind builder or partner on more than one State Waterfowl Management Area in Illinois.

DEPARTMENT OF NATURAL RESOURCES

NOTICE OF ADOPTED AMENDMENTS

- 7) Boat hides are required, except as noted in Sections 590.40 and 590.50, and must have minimum inside dimensions of 18' x 6', and shall be sturdy enough to withstand daily use considering the conditions of the site, and must be maintained in good condition throughout the season, and shall be completed including final brushing by 3 ~~three~~ weeks prior to the opening day of duck season, except at Mississippi River Area Pools 25 and 26 boat hides and final brushing must be completed 4 weeks prior to the opening day of duck season; failure to meet these standards shall result in forfeiture of blind site.
 - 8) Previous year's blind builders shall have until 7 days after the next allocation period drawing to salvage materials from their blinds except as indicated in Sections 590.40(a) and (b) and 590.50(a) and (b).
 - 9) Blinds must include a dog hide that is on the same level as the blind. The dog hide can either be incorporated into the blind by providing a hole at floor level that measures at least 20 inches high by 20 inches wide or by providing a separate compartment that is attached to the blind. Hides attached to the blind should have a minimum floor space that measures 2 feet by 2 feet and should be at least 2.5 feet high with 2 ~~two~~ openings. One opening should be between the blind and the dog hide, should measure at least 20 inches by 20 inches, and should be constructed at the same level as the blind floor. The water access opening should be at least 20 inches wide and 20 inches high. Hides either within the blind or attached should have an enforced ramp to water level that is at least 15 inches wide with cleats every 12 inches. Openings in the blind must be capable of being closed when not in use.
- c) Use of blinds
- 1) Attempts to claim blinds by any manner other than actual occupation shall be considered in violation of this Part and shall be cause for arrest. The insertion of a boat into the boat hide and/or the spreading of decoys before a blind shall not be considered legal occupation of a blind.
 - 2) No person shall hunt, or attempt to hunt, except from within a registered blind.
 - 3) Persons under 16 years of age shall not hunt, or attempt to hunt, unless accompanied by an adult due to safety factors.
 - 4) Blinds shall not be locked.
 - 5) Claiming or attempting to claim any blind which is legally occupied, and/or harassing, in any manner, the occupants of a blind which has been legally occupied, is unlawful.
 - 6) No person shall fish within 250 yards of an occupied blind within the hunting area.
 - 7) All hunting parties shall hunt over a spread of at least 12 decoys during duck season and Canada goose season. The decoys shall be staked, placed, or floating, be individually visible, be

DEPARTMENT OF NATURAL RESOURCES

NOTICE OF ADOPTED AMENDMENTS

at least 8 inches long, and not be within a boat, blind or container.

- 8) At sites where a manned check station is in operation, hunters are required to deposit their hunting license and Federal and State Migratory Waterfowl Stamp in the check station while hunting. Persons exempt by law from having a hunting license and an Illinois stamp must deposit their Firearm Owner's Identification Card. Persons under 21 who do not have a card must be accompanied by an adult who has a valid card in his possession.

d) Public Drawing

- 1) Time and place for all sites holding drawings shall be publicly announced by the Department of Natural Resources.

- 2) A registrant for a drawing must be at least 16 years of age and possess a current or preceding year's Illinois Migratory Waterfowl Stamp and a current or expired (within 12 months prior to the drawing) Firearm Owner's Identification Card unless exempted by law. Persons exempted by law from possessing a hunting license or waterfowl stamp must have a valid Firearm Owner's Identification Card. Persons who are under 21 years of age who do not have a Firearm Owner's Identification Card must be accompanied by an adult who has a valid Firearm Owner's Identification Card in his possession at the drawing. Applicants must be present for the registration and drawing to be eligible for allocation of blind sites.

e) Flood Rules

In the event that State managed sites are flooded to the point that public waterfowl blinds cannot be constructed or are no longer usable, the Department, by public announcement and/or posting, may permit waterfowl hunting under one of the following rules:

- 1) If the check station for that site is open, all rules apply, except that hunting will be allowed from boat, platform or floating blinds which must be located within 10 feet of the marked blind site.
- 2) If the check station is not operable, all rules apply except that hunting will be allowed from boat, platform or floating blinds which must be located within 10 feet of the marked blind site. Additionally, rules listed in Section 590.40(b)(1), (2), (3), (4) and (9) shall not be in force. Rules concerning blind claiming as listed in Section 590.50(b) shall apply.
- 3) If blind sites have not been marked and no check station is operable, the area will be open to hunting from platform, floating or boat blinds or by walk-in hunting, anywhere on the area except refuges and closed waterfowl rest areas. Preplacement of unattended decoys and/or unoccupied blinds or boat hides do not constitute lawful possession of a hunting site. All hunting parties must remain 200 yards apart and follow normal

DEPARTMENT OF NATURAL RESOURCES

NOTICE OF ADOPTED AMENDMENTS

closing hours for the site.

- 4) In all above flood circumstances, regulations requiring the construction of a separate boat hide and regulations regarding the minimum standards for blind construction shall be suspended for that season.

f) Special Hunts

If by regulation published in the Federal Register the U.S. Fish and Wildlife Service sets any special dates for youth-only waterfowl hunting, the Department shall, by public announcement, open those Department sites which, under the circumstances prevailing at the time the Department believes may be opened without unduly disturbing other Department programs:

(Source: Amended at 25 Ill. Reg. 14131, effective 01/22/2001)

Section 590.20 Permit Controlled Department Sites Only - Duck, Goose and Coot Hunting

- a) Sites covered in this Section, which allow hunting by permit only, are:

Banner Marsh Fish and Wildlife Area

Sangchris Lake State Park subimpoundment

Snake Den Hollow State Fish and Wildlife Area

Union County Conservation Area

b) Permit Requirements

- 1) Permit reservations shall be accepted starting in September. Initial acceptance dates and methods for making reservations will be publicly announced. Only applications for reservations submitted by Illinois residents will be processed during the first 2 two weeks of the application period. Applicants making reservations will be sent confirmation.
- 2) Permits shall be issued until the daily quota is filled. The daily quota is determined by the formula: one hunter per 10 to 40 huntable acres. Huntable acres are determined by, but not limited to, the biological studies on the number of the species available; the condition, topography, and configuration of the land at the site; the condition of the roads at the site; the number of employees available to work at the site; and the number of blinds which can be established on a site as set forth in Section 3.8 of the Wildlife Code [520 ILCS 5/3.8].
- 3) The permit shall be for the use of the entire blind. It shall be the responsibility of the permit holder to bring one hunting

DEPARTMENT OF NATURAL RESOURCES

NOTICE OF ADOPTED AMENDMENTS

partner or one non-hunting partner or 2 two non-hunting partners (3 three persons per blind but not more than 2 two hunters per blind) for Snake Den Hollow State Fish and Wildlife Area and Union County, or 3 three partners (hunters or non-hunters; 4 four persons per blind) for Banner Marsh and Sangchris Lake State Park subimpoundment. Non-hunting partners are defined as persons under 21 years of age accompanying the hunter in the blind. Unallocated blinds shall be filled by a drawing at the sites.

- 4) Permits are not transferable.
- 5) Permits will be issued from the Springfield Permit Office for permit-controlled sites. For other information write to:

Illinois Department of Natural Resources
Permit Office - Waterfowl
P.O. Box 19457
Springfield, IL 62794-9457

c) General regulations

- 1) All use other than permit hunting as defined in subsection (b)(3) is prohibited at Snake Den Hollow from October 1 through close of Central Zone Canada goose season.

2) Hours, Permits and Stamp Charges

- A) Hunting hours are from legal opening time until 1:00 p.m.
- B) At Snake Den Hollow from opening day through November 30, all December--14, hunters must register with--permit reservations--are--required--to--check--in at the check station by between--4:30--a.m.--and 5:00 a.m. Permits are void after 5:00 a.m. From December 1 to 15 through December 31 the--close of--goose--seasons, all hunters must register with--permit reservations--are--required--to--check--in at the check station by between--5:00--a.m.--and 5:30 a.m. Permits are void after 5:30 a.m. From January 1 through the close of goose season, all hunters must register at the check station by 6:00 a.m. Permits are void after 6:00 a.m. At Banner Marsh Fish and Wildlife Area and Union County Conservation Area hunters with permit reservations are required to check in at the check station between 4:30 a.m. and 5:00 a.m. Permits are void after 5:00 a.m. A drawing shall be held to allocate blind sites at all sites. At Sangchris Lake State Park subimpoundment hunters must be checked in 90 minutes before legal hunting hours (2 hours before sunrise). Permits are void after this time.

- C) A \$15 Daily Usage Stamp must be purchased at Snake Den Hollow State Fish and Wildlife Area and Union County Conservation Area. Non-hunting partners between 16 and 20 years of age must pay daily usage stamp fee. Non-hunting partners under 16 are not required to purchase a daily usage stamp.

DEPARTMENT OF NATURAL RESOURCES

NOTICE OF ADOPTED AMENDMENTS

- D) A \$10 Daily Usage Stamp must be purchased at Banner Marsh Fish and Wildlife Area and Sangchris Lake State Park subimpoundment. Non-hunting partners between 16 and 20 years of age must pay daily usage stamp fee. Non-hunting partners under 16 are not required to purchase a daily usage stamp.

- 3) Hunting shall be done from assigned blinds only and hunters shall not move from blind to blind or leave the blind and return.

- 4) Guns must be unloaded and encased at all times when not hunting.

- 5) The legal hunting season for Union County Conservation Area is the dates of the Quota Zone goose hunting season except that the areas shall be closed on Mondays and December 24, 25, 26 and the first weekday after December 26 other than a Monday. (This site shall be open only for the Illinois Youth Goose Hunt on the first weekday after December 26 other than a Monday, pursuant to Section 590.25.)

- 6) The legal hunting season at Snake Den Hollow is the dates of the Central Zone goose hunting zone except that the area shall be closed on Tuesdays, Wednesdays, and December 24, 25 and 26.

- 7) The legal hunting season at Banner Marsh is the dates of the central zone duck hunting season.

- 8) The legal hunting season for the Sangchris Lake subimpoundment is the opening day of the Central Zone Duck Hunting Season, Tuesdays, Thursdays and Sundays, Saturdays and the last day of the Central Zone Duck Hunting Season (on Thursdays blinds will be allocated by a daily drawing at the site pursuant to Section 590.60(b)(32)(B)).

- 9) Hunters may not possess more than 5 shot shells for every Canada goose allowed in the daily bag limit at Snake Den Hollow.

- 10) At Union County Conservation Area during duck season hunters may possess up to 25 shot shells. When duck season is closed hunters may not possess more than 5 shot shells for every Canada goose allowed in the daily bag limit.

- 11) At Union County Conservation Area hunters may bring up to 3 dozen decoys per party. No full bodied or supermagnum shell decoys are allowed.

- 12) Hunters without their guns may leave the blind to retrieve crippled waterfowl at Union County Conservation Area.

- 13) Hunters must be at least 16 years of age (except for the Illinois Youth Goose/Duck Hunt) to draw for a pit or blind. Each person under 16 years of age must be accompanied by a supervising adult.

(Source: Amended at 25 Ill. Reg. 14131, effective Oct 22 2001)

Section 590.25 Illinois Youth Waterfowl Hunting Permit Requirements (Repealed)

- a) ~~State-sites-covered-in-this-Section, which--allow--hunting--by--permit only--are:~~

DEPARTMENT OF NATURAL RESOURCES

NOTICE OF ADOPTED AMENDMENTS

Bonneley State Wildlife Area

Horseshoe Lake Conservation Area (Alexander County)

Union County Conservation Area

b) Permit Requirements

1) Permit reservations shall be accepted starting in September. Initial acceptance dates shall be publicly announced. Applicants must be between the ages of 10-15 on the date of the hunt.

2) Only one permit per person shall be issued for the hunt on the first weekday after December 26 other than a Monday at Horseshoe Lake Conservation Area (Alexander County) and Union County Conservation Area and on the Sunday immediately preceding the first firearm deer season as set forth in 17-III-Adm-Code 650-10 at Bonneley State Wildlife Area.

3) The permit shall be for the use of the entire blind and it shall be the responsibility of the permit holder to bring one supervising adult who may also hunt.

4) Permit reservations and transferability.

A) All duplicate permit reservations shall be rejected and the hunter shall forfeit his rights to a permit. Permits are not transferable. Previous participants are ineligible to apply for a permit.

B) For other information write to:

Illinois Department of Natural Resources

Youth Waterfowl Hunt

524 S. Second Street, Room 210

P.O. Box 19457

Springfield, IL 62794-9457

5) Permits for the Illinois Youth Waterfowl Hunt shall be issued from the Springfield Permit Office.

c) General waterfowl hunting regulations at the Youth Waterfowl Hunting Areas:

1) Hours, Permits and Stamp Charges

A) Hunting hours at Horseshoe Lake (Alexander County) and Union County are from legal opening until 1:00 p.m. on the day of the Youth Goose Hunt. Hunting hours at Bonneley State Wildlife Area are from statewide opening to 1:00 p.m. on the day of the Youth Waterfowl Hunt.

B) Hunters with Illinois Youth Waterfowl Hunt permit reservations are required to check in at the check station between 5:00 a.m. and 5:30 a.m. Permits are void after 5:30 a.m. A drawing shall be held to allocate blind sites.

C) There is no fee for the Illinois Youth Waterfowl Hunting Permit.

2) Hunting must be done from assigned blinds only and hunters shall not move from blind to blind or leave the blind and return.

DEPARTMENT OF NATURAL RESOURCES

NOTICE OF ADOPTED AMENDMENTS

3) Guns must be unloaded and encased at all times when not hunting. At Union County Conservation Area (Horseshoe Lake Conservation Area) (Alexander County) each youth shall not possess more than 25 shells. Each adult shall not possess more than 5 shells for each Canada goose allowed in the daily bag. Hunters without their guns may leave the blind to retrieve crippled waterfowl.

4) Each youth and supervising adult may be accompanied by a non-hunting guide.

5) At Rend Lake hunters participating in the youth hunt must sign in and out, no entry into subimpoundments before 4:30 a.m. and must be out of subimpoundments by 2:00 p.m.

(Source: Repealed at 25 Ill. Reg. 14.301, effective 1/4/81.)

Section 590.40 Check Station Department Sites Only - Duck, Goose and Coot Hunting

a) The sites listed in this Section conform to Statewide Regulations (Section 590.10) and General Department Regulations (Section 590.15), except as noted in parentheses and in the remainder of this Section. Daily hunting hours close at 1:00 p.m. unless otherwise indicated in parentheses below.

1) Anderson Lake Conservation Area - All Management Units (previous years blind builders shall have until February 1 to salvage blind materials)

2) Batchtown (3:30 p.m. CST closing, Central Standard Time - CST) (except the last 3 days of duck season and the last 3 days of regular Canada goose season shall close at sunset; 3 year blind allocation period)

3) Calhoun Point (3:30 p.m. CST closing) (except the last 3 days of duck season and the last 3 days of regular Canada goose season shall close at sunset; 3 year blind allocation period)

4) Glades (3:30 p.m. CST closing) (except the last 3 days of duck season and the last 3 days of regular Canada goose season shall close at sunset; 3 year blind allocation period)

5) Godar Diamond (3:30 p.m. CST closing) (except the last 3 days of duck season and the last 3 days of regular Canada goose season shall close at sunset; 3 year blind allocation period)

6) Horseshoe Lake State Park - Madison County (3:30 p.m. CST closing) (except the last 3 days of duck season and the last 3 days of regular Canada goose season shall close at sunset with the exclusion of Christmas Day; 3 year blind allocation)

7) Lake DePue and Lake DePue Walk-in Unit (aka 31)

8) Marshall State Fish and Wildlife Area (the use of any metal, with the exception of fasteners less than 12 inches in length, carpet, and plastic snow fence or mesh will be prohibited in the construction of waterfowl blinds; previous year's blind builders

DEPARTMENT OF NATURAL RESOURCES
NOTICE OF ADOPTED AMENDMENTS

- 2) report their harvest at the end of each day's hunt.
Registered blind builders or partners desiring to claim their blinds must report to the check station at least one hour before hunting hour each day and occupy that blind for at least one hour. Hunters wishing to move to another blind during their daily hunt must report back to the check station for reassignment.
- 3) All hunting must be from registered blinds only and hunters must occupy their blinds within one hour after registering at the check station.
- 4) All hunters must be checked out within one hour of the close of the legal hunting hours. At this time waterfowl and coots bagged must be checked and hunting licenses or Firearm Owner's Identification Cards shall be returned.
- 5) It shall be unlawful to trespass upon the designated duck hunting area during the 7 days prior to the regular duck season as posted at the site. At Mississippi River Area Pools 25 and 26 it shall be unlawful to trespass upon the designated duck hunting area between sunset of the Sunday immediately preceding opening day of regular duck season through the day before regular duck season as posted at the site.
- 6) It shall be unlawful to trespass upon areas designated as waterfowl rest areas or refuges from 2 two weeks prior to the start of regular duck season through the close of regular duck and Canada goose season.
- 7) No more than 4 persons shall occupy a blind at one time, except on the statewide Youth Waterfowl Hunting Day, as authorized in Section 590.15(f), 5 persons may occupy a blind at one time only if the party is comprised of 2 youth hunters, their non-hunting parents and one non-hunting guide.
- 8) Blind sites shall be allocated for a period of one year unless otherwise noted in parentheses under subsection (a).
- 9) During duck season, blinds not claimed by the builder or partners by one hour before hunting time shall be assigned by a drawing at this time and during the hours from 8:00 a.m. to 11:00 a.m., except at Batchtown, Calhoun Point, Glades, Godar-Diamond, Horseshoe Lake State Park (Madison County) and Stump Lake (9:00 a.m. - 1:00 p.m.) after which time the area shall be closed to additional hunters.
- 10) Previous year's blind builders shall have until 7 days after the next allocation period drawing to salvage materials from their blinds, except as listed in parentheses under subsection (a). After this date, all materials become the property of the new blind builder or the Department.
- 11) For those sites listed in this subsection that have 3 year blind allocation periods, re-registration of blind sites during the non-draw years must be accomplished in person during a publicly announced period. Failure to re-register during the prescribed

DEPARTMENT OF NATURAL RESOURCES
NOTICE OF ADOPTED AMENDMENTS

- 9) shall have until February 1 to salvage blind materials) **Marshall County--Conservation--Area--(previous-years-blind-builders-shall have-until-February-1-to-salvage-blind-materials)---Spring-Branch Unit**
- 9) Mazonia State Fish and Wildlife Area (previous years blind builders shall have until February 1 to salvage blind materials; goose hunting prohibited before and after duck season; closed Mondays and Tuesdays)
- 10) Rice Lake Conservation Area (previous years blind builders shall have until February 1 to salvage blind materials)
- 11) Sanganois State Fish and Wildlife Area (check station and walk-in areas, hunters are not required to hunt from a blind site during goose seasons held after the duck season)
- 12) Spring Lake (previous years blind builders shall have until February 1 to salvage blind materials; during the waterfowl season, the maximum horsepower limit for outboard motors on the lake is 25 h.p.; no goose hunting prior to duck season)
- 13) Stump Lake (3--year--blind--allocation--period, 3:30 p.m. CST closing) (except the last 3 days of duck season and the last 3 days of regular Canada goose season shall close at sunset; 3 year blind allocation period)
- 14) Woodford State Fish and Wildlife Area (the use of any metal, with the exception of fasteners less than 12 inches in length, carpet, and plastic snow fence or mesh will be prohibited in the construction of waterfowl blinds; previous year's blind builders shall have until February 1 to salvage blind materials) **Woodford County--Fish--and--Wildlife--Area--(previous-years-blind-builders have-until-February-1-to-salvage-blind-materials)**
- 15) William Powers Conservation Area (legal closing) (previous years blind builders shall have until May 1 to remove blinds in their entirety, including support posts; failure to comply will result in the blind builder and partners for that blind losing privilege of being a blind builder or partner at this site for the following year; no goose hunting prior to duck season; hunting from boat blinds is permitted within 10 feet of the following numbered marked blind sites: 4, 5, 7, 8, 11, 12, 14, 16, 17, 18, 19, 20, 21, 22, 23; all hunters must check in prior to occupying blind and must check out no later than one hour after legal closing time)
- b) The following regulations apply to all sites listed in this Section under subsection (a):
 - 1) All hunters must report to the check station to fill out information cards and to turn in hunting licenses or Firearm Owner's Identification Cards before proceeding to blinds. Beginning the day after duck season ends, when the check station is not operating, unclaimed blinds shall be allocated on a first come-first served basis, as per Section 590.50(b)(1), (2) and (3). Goose hunters must sign in prior to hunting and sign out and

DEPARTMENT OF NATURAL RESOURCES

NOTICE OF ADOPTED AMENDMENTS

period will result in the loss of blind site. Registrants must present current year's Illinois hunting license and State waterfowl stamp for each blind builder. Blinds not re-registered will be allocated by a drawing. No waterfowl blind may be removed until after the close of the waterfowl season.

(Source: Amended at 25 Ill. Reg. 14131, effective 01/22/2001)

Section 590.50 Non-Check Station Department Sites Only - Duck, Goose and Coot Hunting

- a) The following sites conform to Statewide Regulations (Section 590.10) and General Department Regulations (Section 590.15), except as noted in the remainder of this Section.

Anderson Lake West Point Management Unit (walk-in or boat; staked sites; daily draw)

Blanding Wildlife Area (Federal Lands, boat access only; scull boat hunting for waterfowl is permitted but hunters must not get closer than 200 yards from a permanent duck blind or in areas posted as closed to scull hunters)

Boston Bay (No permanent blinds may be built; temporary blinds only; 200 yards apart)

Chain O'Lakes State Park (For goose seasons prior to duck season, hunting allowed from numbered blind sites only and blinds need not be completed; blinds must be removed in their entirety, including support posts, by May 1; failure to comply will result in the blind builder and partners for that blind losing the privilege of being a blind builder or partner at this site for the following year)

Clear Lake Wildlife Management Area (one year blind allocation)

Des Plaines River Conservation Area (Goose hunting permitted during special goose season prior to regular waterfowl season; during special goose season hunting allowed from numbered blind sites only and blinds do not have to be completed; previous years blind builders shall have until February 1 to salvage blind materials)

Fuller Lake (Daily hunting hours close at 3:30 p.m. CST, except the last 3 days of duck season and the last 3 days of regular Canada goose season shall close at sunset; 3 year blind allocation period)

DEPARTMENT OF NATURAL RESOURCES

NOTICE OF ADOPTED AMENDMENTS

Fulton County Goose Management Area (Wednesday, Saturday and Sunday hunting only; daily drawing at Rice Lake State Fish and Wildlife Area check station; hunting from staked blind sites only; no other use October 1 through the close of the central zone goose season)

Helmhold Slough (Daily hunting hours close at 3:30 p.m. CST, except the last 3 days of duck season and the last 3 days of regular Canada goose season shall close at sunset; 3 year blind allocation period)

Illinois River - Pool 26 (3 year blind allocation period)

Kankakee River State Park (no boat hide required; no goose hunting permitted prior to duck season; previous years blind builders shall have until February 1 to salvage blind materials)

Lake Siniissippi (Department Owned Land; the use of any metal, with the exception of fasteners less than 12 inches in length, will be prohibited in the construction of waterfowl blinds; blind numbers 1, 2, 3, 4, 13, 14, 15, 16, 20, 21, 26, 27, 28, 29, 30, 31 and 32 must be removed in their entirety no later than 10 ten days after the close of the northern zone waterfowl season; blinds may be removed beginning November 15; hunting from boat blinds is permitted within 10 feet of marked blind sites beginning November 15 for those blinds removed on or after November 15)

Marshall County Conservation Area - Sparland Unit (Department Owned Land; previous years blind builders shall have until February 1 to salvage blind materials)

Mississippi River Pool 16 (Federal Lands; no permanent blinds--temporary blinds only above Velie Chute except for Goose Pond, Sunfish Slough, and Milan Bottoms (landward area upriver from River Mile 474); 2 year blind allocation period; scull boat hunting for waterfowl is permitted but hunters must not get closer than 200 yards from a permanent duck blind or in areas posted as closed to scull hunting)

Mississippi River Pool 17 (Federal Lands; scull boat hunting for waterfowl is permitted but hunters must not get closer than 200 yards from a permanent duck blind or in areas posted as closed to scull hunting; 2 two year blind allocation period)

Mississippi River Pool 18 (Federal Lands; scull boat hunting for waterfowl is permitted but hunters must not get closer than 200 yards from a permanent duck blind or in areas posted as closed to

DEPARTMENT OF NATURAL RESOURCES

NOTICE OF ADOPTED AMENDMENTS

scull hunting; 2 year blind allocation period)

Mississippi River Pools 21, 22, 24 (Federal Lands; 2 year blind allocation period)

Mississippi River Pools 25, 26 (Federal Lands; 3 year blind allocation period)

Momence Wetlands (Hunting allowed from a portable blind or anchored boat blind only; no more than 3 persons per blind site; area closed Mondays, Wednesdays, Thursdays and Fridays, except hunting is permitted on the opening day of duck season; no hunting during firearm deer seasons)

Pekin Lake (Department Owned Land) (Hunting allowed from registered blinds or within 10 feet of staked blind sites if blinds cannot be built)

Piasa Island (3 year blind allocation period)

Quincy Bay (Mississippi River Pool 21) (hunting hours legal opening to 1:00 p.m. for blinds 1 through 25 only)

Red's Landing (3 year blind allocation period; that portion of Red's Landing that is north of the access road will be noted as a walk-in/boats without motors area only; no permanent blinds; daily hunting hours will close at 3:30 p.m. CST, except the last 3 days of duck season and the last 3 days of regular Canada goose season shall close at sunset; hunting parties shall not hunt over less than 12 decoys nor more than 24 decoys)

Redwing Slough/Deer Lake (closed on Mondays, Tuesdays, Thursdays and Fridays except that hunting will be allowed on opening day of duck season; no goose hunting except during duck season; previous years blind builders shall have until February 1 to salvage blind materials; daily hunting hours will close at 1:00 p.m.)

Redwing Slough/Deer Lake State Natural Area (hunting from boat blinds is permitted within 10 feet of marked blind sites)

Rice Lake, Walk-in Management Unit, and Copperas Creek Management Unit and Big Lake Management Unit (Walk-in or boats without motors only; daily drawing; daily hunting hours will close at 1:00 p.m.)

Riprap Landing (3 year blind allocation period)

Shabbona Lake State Recreation Area (Hunting will be allowed

DEPARTMENT OF NATURAL RESOURCES

NOTICE OF ADOPTED AMENDMENTS

between November 1 and December 31 but only when the North Zone Canada goose season is open; permanent, pre-constructed blinds will be awarded for either November or December; boat and dog hides are not required; persons awarded blinds at the drawing, or their partners, must claim their blinds one hour before legal shooting hours; hunting hours will end at 1:00 p.m. daily)

Starved Rock State Park (Department managed areas; the use of any metal, with the exception of fasteners less than 12 inches in length, will be prohibited in the construction of waterfowl blinds; all blinds must be removed in their entirety no later than 10 days after the close of the Central Zone duck waterfowl season; blinds may be removed beginning November 15; hunting from boat blinds is permitted within 10 feet of marked blind sites beginning November 15 for those blinds removed on or after November 15; hunting from boat blinds within 10 feet of marked blind sites is allowed until the end of the regular Central Zone Canada goose season)

b) The following regulations apply to all sites listed in this Section under subsection (a).

- 1) Blind builders or partners must occupy their blinds by one-half hour before opening hunting hour each day in order to claim their blind for the day. Blinds not legally occupied may be claimed on a first come-first served basis.
- 2) Attempts to claim blinds by any manner other than actual occupation shall be considered in violation of this part and shall be cause for arrest. The insertion of a boat into the boat hide and/or the spreading of decoys before a blind shall not be considered legal occupation of a blind.
- 3) All hunting must be from registered blinds only unless otherwise noted in parentheses under subsection (a).
- 4) Blind sites shall be allocated for a period of one year unless otherwise noted in parentheses under subsection (a).
- 5) Previous year's blind builders shall have until 7 days after the next allocation period drawing to salvage materials from their blinds, except as listed in parentheses under subsection (a). After that date, blinds become the property of the new blind builders.
- 6) No more than 4 persons shall occupy a blind at one time, except on the statewide Youth Waterfowl Hunting Day, as authorized in Section 590-15(f); 5 persons may occupy a blind at one time only if the party is comprised of 2 youth hunters and their non-hunting parents and one non-hunting guide, and except on Mississippi River Pools 16, 17, 18, 21, 22 and 24 and Blanding Wildlife Area. River Pools 16, 17, 18, 21, 22 and 24 and Blanding Wildlife Area. On Mississippi River Pools 16, 17, 18, 21, 22 and 24 and Blanding Wildlife Area the limit of 4 persons does not apply.
- 8) For those sites listed in subsection (a) that have 3 year blind

DEPARTMENT OF NATURAL RESOURCES

NOTICE OF ADOPTED AMENDMENTS

allocation periods, re-registration of blind sites during the non-draw years must be accomplished either in person or through the mail during a publicly announced period. Failure to re-register during the prescribed period will result in the loss of blind site. Registrants must present current year's Illinois hunting license and State waterfowl stamp for each blind builder. Blinds not re-registered will be allocated by a drawing. No waterfowl blind may be removed until after the close of the waterfowl season.

- 9) It shall be unlawful to trespass upon areas designated as waterfowl rest areas or refuges 2 two weeks prior to the start of regular duck season through the close of regular duck and Canada goose season as posted at the site.
- 10) It shall be unlawful to trespass upon the designated waterfowl hunting area during the 7 days prior to the waterfowl season as posted at the site. At Mississippi River Area Pools 25 and 26 it shall be unlawful to trespass upon the designated waterfowl hunting area between sunset of the Sunday immediately preceding the opening date of waterfowl season through the day before waterfowl season as posted at the site.
- c) Blind winners on the following sites will be provided forms for the purpose of maintaining waterfowl harvest records. The forms must be completed and returned within 15 days after the close of the site's waterfowl season or the blind builder and partners for that blind shall not be allowed to be a blind builder or partner at these sites for the following year.
 - Chain O'Lakes State Park
 - Clear Lake Wildlife Management Area
 - Des Plaines Conservation Area
 - Kankakee River State Park
 - Redwing Slough/Deer Lake

(Source: Amended 9 OCT 22 2001 at 25 Ill. Reg. 14131, effective 14131)

Section 590.60 Various Other Department Sites - Duck, Goose and Coot Hunting

The sites listed in this Section conform to Statewide Regulations (Section 590.10) and the following regulations, except as noted.

a) Regulations

- 1) Hunting hours are from legal opening to 1:00 p.m., except hunting shall be permitted until sunset on those sites indicated with by (1) following the location in subsection (b).

DEPARTMENT OF NATURAL RESOURCES

NOTICE OF ADOPTED AMENDMENTS

- 2) No permanent blinds allowed; all blinds must be of a portable nature and constructed with natural vegetation at the blind site and no pits can be dug. All materials must be removed or dismantled at the end on the day's hunt.
- 3) Portable boat blinds must have been completed, including final brushing, before entering the water and must be removed at the end of the day's hunt.
- 4) Waterfowl hunters must maintain a distance of 200 yards between hunting parties.
- 5) No hunting is permitted within 200 yards of developed recreation areas, public use facilities, and construction or industrial sites.
- 6) No check station is operated nor is any check in/check out required, except as indicated in the remainder of this Section.
- 7) It shall be unlawful to trespass upon areas designated as waterfowl rest areas or refuges from 2 two weeks prior to the start of regular duck season through the close of regular duck and Canada goose season except as indicated in the remainder of this Section.
- 8) It shall be unlawful to trespass upon the designated waterfowl hunting area during the 7 days prior to the regular duck season unless otherwise ~~as~~ posted at the site.
 - b) Site specific regulations
 - 1) Cache River State Natural Area (1)
 - 2) Campbell Pond Wildlife Management Area (1)
 - 3) Carlyle Lake Project Lands and Waters
 - A) No one may enter the subimpoundment area to hunt waterfowl before 4:30 a.m. each day of the waterfowl hunting season, or remain in the area after 3:00 p.m. each day of the waterfowl hunting season, except during the last 3 days of the Canada goose season and during any goose seasons that occur before or after Canada goose season, hunters must be out of the area by one hour after sunset and not return until 4:30 a.m. The subimpoundment area is defined as that area bordered by the Kaskaskia River on the east and south and extending north and west to the Carlyle Lake project boundary, and includes impoundment areas 1, 2, 3, and 4 and within the impoundments on the East Side Management Area located east of the Kaskaskia River.
 - B) The waters of Carlyle Lake are defined as the lake and that portion of the Kaskaskia River, northfork, eastfork, Peppenhorst Branch and Allen Branch north of the buoys only, and Hurricane Creek that are within the boundaries of the Carlyle Lake property.
 - C) Walk-in hunting shall be permitted in subimpoundment areas. Boats with no motors are allowed in the subimpoundments. Department of Natural Resources personnel will designate boat launching locations.

DEPARTMENT OF NATURAL RESOURCES

NOTICE OF ADOPTED AMENDMENTS

- D) When the water level in the subimpoundment area is too high (due to flooding) to allow walk-in hunting, Department of Natural Resources personnel shall post that the area is open to boats with motors of 10 HP or less and will designate boat launching locations.
- E) Known eagle protection areas will be posted by the Site Superintendent and will be closed to waterfowl hunting.
- F) Each hunting party is required to hunt over a minimum of 12 decoys. Decoys shall not be left out unattended or after 3:00 p.m. each day of the waterfowl season, except during the last 3 days of the Canada goose season and during any goose seasons that occur after Canada goose season, decoys shall not be left out unattended or later than one hour after sunset.
- G) All waterfowl hunters must register prior to hunting each day of the waterfowl hunting season at the nearest accessible registration box. All hunters must sign out and record their harvest daily before they exit the area.
- H) The Army Corps of Engineers may build blinds on Corps managed lands and waters for management purposes only.
- I) During the last 3 days of Canada goose season and during any goose seasons that occur after Canada goose season, hunting hours shall close at sunset daily.
- J) The following rules apply to North Allen Branch Waterfowl Management Area (Eldon Hazlet State Park) only
- i) Three designated blind sites are available on a first come-first served basis. Walk-in hunting only is permitted with a maximum of 4 hunters per site. All hunting must be from one blind site located between identically numbered stakes.
 - ii) Hunters must sign in prior to hunting, and sign out and report their harvest at the end of each day. All hunters must be checked out by 2:00 p.m. daily, except the last 3 days of the Canada goose season, and during any goose seasons that may occur after the Canada goose season, hunters must be checked out by one hour after sunset.
 - iii) Decoys shall not be left out unattended.
 - iv) When the lake floods this area and designated blind sites are not usable for walk-in hunting, the Department, by public announcement and/or posting, will open the affected area to hunting from boats per Carlyle Lake Project Lands and Waters' rules.
- 4) Chauncey Marsh (1)
Permit required, may be obtained at Red Hills State Park Headquarters and must be returned by February 15.
- 5) Clinton Lake (1)
A) Hunters must obtain free permit from site office prior to

DEPARTMENT OF NATURAL RESOURCES

NOTICE OF ADOPTED AMENDMENTS

- hunting; hunters must return the permit and report harvest by February 15 of following year or hunting privileges for following season shall be forfeited.
- B) Hunting is allowed only from anchored portable boat blinds except no waterfowl hunting is permitted in the area extending from a line between the west side boat ramp and the southern-most point of the central peninsula to the Davenport Bridge.
- C) No more than 4 persons shall occupy or use a portable boat blind.
- D) Each hunting party is required to hunt over a minimum of 12 decoys.
- E) No hunting is permitted within 300 yards of power lines. Coffeen Lake State Fish and Wildlife Area
- 6) A) Hunters must sign in prior to hunting and sign out, reporting harvest at the end of each day.
- B) Hunting from staked sites only.
- C) No permanent blinds.
- D) Hunting by boat access only.
- E) No cutting vegetation on site.
- F) Hunting north of railroad tracks only.
- G) Hunting hours from legal opening to 1 p.m. Fishing allowed between the railroad tracks and the county road after 1:00 p.m.
- H) Four hunters per blind site.
- I) No hunting during firearm deer seasons.
- J) All hunters must be checked out at sign in box by 2:00 p.m.
- 7) Cypress Pond State Natural Area (hunters must sign in prior to hunting and sign out reporting harvest at the end of each day) (1)
- 8) Dog Island Wildlife Management Area (1)
Hunters must sign in prior to hunting and sign out reporting harvest at end of each day.
- 9) Donnelley State Wildlife Area
- A) Hunting is prohibited on Tuesdays and Wednesdays except open on opening day and on the first Sunday immediately preceding the first firearm deer season as set forth in 17 Ill. Adm. Code 650.10 except as indicated in Section 590.25.
- B) Goose hunting is prohibited after the close of the duck season.
- C) All hunting shall be from designated blinds only. Refilling or changing blinds is not permitted.
- D) All hunters must report to the check station to fill out an information card and turn in hunting licenses or Firearm Owner's Identification Cards before proceeding to blinds.
- E) A hunter may bring one or 2 two hunting partners under the age of 21.
- F) \$10 daily usage stamp must be purchased to hunt this area.

DEPARTMENT OF NATURAL RESOURCES

NOTICE OF ADOPTED AMENDMENTS

Non-hunting partners between 16 and 20 years of age must pay daily usage stamp fee. Non-hunting partners under 16 are not required to purchase a daily usage stamp.

G) No outboard motors are allowed by public - only by authorized DNR personnel.

H) No more than 3 persons shall occupy a blind at any one time ~~except on the statewide youth waterfowl hunting day as authorized in Section 590-15(f) 5 persons may occupy a blind at one time only if the party is comprised of 2 youth hunters their non-hunting parents and one non-hunting guide.~~

I) All parties are required to report to check station within 1 hour after termination of hunt or no later than 2:00 p.m.

J) All parties must hunt over a minimum of 12 decoys and a maximum of 48 decoys can be used, which must be removed upon the termination of the hunt.

K) The first weekend and the third Saturday of the regular duck season shall be designated as youth hunt days. This will consist of youth or youths 15 and under plus one adult per blind. There shall be no charge for the youth on these days. Those blinds not allocated to youths shall be available to adults on those days.

L) One blind shall be made available by priority claim to "disabled" persons (as defined in Section 2.33 of the Wildlife Code).

10) East Conant Field

Waterfowl hunters must obtain permits prior to hunting. Permits must be returned by February 15.

11) Fort de Chartres Historic Site (1)

A) Hunting is allowed from anchored, portable boat blinds only on a first come-first served basis.

B) Each hunting party is required to hunt over a minimum of 12 decoys which must be removed at the end of each hunting day.

C) No hunting is allowed during firearm deer season.

12) Fox Ridge State Park (1)

Hunting restricted to Embarras River and its flood waters.

13) Fox River

A) Waterfowl hunting is prohibited on that portion of the Fox River running from the Kendall-Kane County line downstream to a line extending from the intersection of Route 71 and Douglas Street in Oswego, across the Fox River to the intersection of Hickory Lane and Riverview Drive.

B) Waterfowl hunting shall be from Department designated sites only on that portion of the Fox River downstream from the line extending from the intersection of Route 71 and Douglas Street in Oswego, across the Fox River to the intersection of Hickory Lane and Riverview Drive downstream to the Fox River Drive Bridge. Hunting at the designated sites will be

DEPARTMENT OF NATURAL RESOURCES

NOTICE OF ADOPTED AMENDMENTS

on a first come-first served basis.

14) Freeman Mine

Hunting regulations will be publicly announced.

15) Heidecke State Fish and Wildlife Area, Braidwood Fish and Wildlife Area and Powerton Lake

A) Blind sites shall be allocated on a daily draw basis conducted at the check stations 60 minutes before hunting time. Hunters shall register as parties for the drawing; each party drawn shall be allowed to select blind site in order drawn; only those hunters registered in party shall be allowed to hunt with their party; no more than 3 hunters per party; persons under the age of 16 shall not be allowed to hunt unless accompanied by an adult.

B) Blind sites not selected during the drawing shall be allocated on a first come-first served basis. Vacant blind sites shall not be allocated after the drawing until one hour after legal hunting time. No blind sites shall be allocated after 10:00 a.m. Hunters wishing to move to another blind site must report this move to the check station attendant in person before such a move.

C) Access to water blind sites must be by boat only and from designated boat launch sites.

D) All hunting must be from portable boat blinds, within 10 yards of the assigned numbered stake or buoy. No more than 3 persons shall use one blind.

E) Upon vacating blind sites, all hunters must report to the check station within one hour. At this time, waterfowl bagged must be checked in and displayed to the station operator and hunting licenses returned.

F) Each hunting party is required to hunt over a minimum of 12 decoys. Decoys must be picked up immediately after the hunt is over.

G) Heidecke Lake and Braidwood Lake shall be closed to all fishing and boat traffic except for legal waterfowl hunters from 10 days prior to regular duck season until the close of the regular duck and Canada goose season. Powerton Lake shall be closed to boat traffic from 7 days prior to opening of regular duck season until February 15, except for legal waterfowl hunters, and closed to all unauthorized entry during the regular duck season.

H) No hunting on Monday and Tuesday at Heidecke and Braidwood Lakes. No hunting at Powerton Lake on Monday through Thursday except hunting permitted on State holidays.

I) It is unlawful to hunt waterfowl on the water area in any watercraft less than 16 feet long and 60 inches in beam and without a gas-powered motor.

J) No guns may be carried from water blinds to retrieve waterfowl that fall on land.

DEPARTMENT OF NATURAL RESOURCES

NOTICE OF ADOPTED AMENDMENTS

- K) Hunting is closed on Christmas Day and New Year's Day.
- L) All water areas not posted with blind site numbers shall be refuge and are closed to all boat traffic except by authorized personnel.
- M) It is unlawful to shoot across any dike.
- N) Waterfowl hunting shall close with the conclusion of the duck season at Powerton Lake. At Heidecke and Braidwood Lakes waterfowl hunting closes at the end of duck or goose season, whichever is later. No goose hunting is allowed prior to duck season.
- 16) Horseshoe Lake (Alexander County) Daily Drawing Waterfowl Hunting Area Only
- A) Waterfowl hunting shall be permitted only during goose season; ~~except that no hunting is allowed until December 15.~~ Area is closed on Mondays, Tuesdays and December 24, 25, 26 and on the day of the Youth Goose Hunt (this site shall be open only for the Illinois Youth Goose Hunt on the first weekday after December 26 other than a Monday, pursuant to Section 590.25).
- B) Hunting shall be done from assigned blinds only.
- C) A daily drawing for assigned blind sites will be held at 5:00 a.m. at the check station each day hunting is allowed. For the drawing, hunters must register as a party; no more than 2 people per party are permitted.
- D) Hunters must deposit their license prior to going to their blinds.
- E) Hunters must park in assigned, designated areas only.
- F) Hunters must hunt over a minimum of 12 Canada goose decoys. A maximum of 3 dozen decoys is allowed; no full bodied or supermagnum shell decoys are allowed.
- G) Hunters must return to the check station and report their harvest by 2:00 p.m.
- H) During duck season hunters may possess up to 25 shot shells. When duck season is closed, hunters may not possess more than 5 shot shells for every Canada goose allowed in the daily bag limit.
- I) Hunters cannot move from blind to blind, nor leave the assigned blind to shoot crippled geese; hunters may leave the assigned blind to retrieve crippled geese, but must leave their guns in the blind.
- 17) Horseshoe Lake (Alexander County) Public Hunting Area
- A) Closed to waterfowl hunting on Mondays and Tuesdays.
- B) When duck season is closed, goose hunters may not possess more than 5 shot shells for every Canada goose allowed in the daily bag limit.
- 18) Horseshoe Lake Refuge (no hunting allowed, no boat motors except trolling motors will be allowed on Horseshoe Lake from October 15 to March 1)

DEPARTMENT OF NATURAL RESOURCES

NOTICE OF ADOPTED AMENDMENTS

- 19) Kaskaskia River Fish and Wildlife Area
- A) No waterfowl hunters may remain in the area after 3:00 p.m. For those lands lying south of Illinois Route 154 and north of Illinois Route 13, the legal hunting hours shall be from statewide opening hour until statewide closing hour.
- B) All waterfowl hunting parties must use at least 12 decoys. Hunting is allowed on a first come-first served basis.
- C) It is unlawful to leave duck and goose decoys unattended. Decoys must be picked up at the end of each day's hunt.
- D) All waterfowl hunters must register prior to hunting each day of the waterfowl season at the nearest check station, and must sign out and record their harvest daily before they exit the area.
- E) The following regulations apply to the Doza Creek Waterfowl Management Area:
- i) No waterfowl hunters may enter the area before 3:00 a.m. each day of the waterfowl hunting season. No waterfowl hunters may remain in the area after 3:00 p.m.
- ii) Only waterfowl, coot, archery deer and fall archery turkey hunting (as provided by 17 Ill. Adm. Code 670 and 720) allowed in this area during the duck hunting season; goose hunting is closed during the second firearm deer season if the second firearm deer season occurs after duck season.
- iii) For the first 4 days of the duck season, all waterfowl hunting must occur within 10 yards of an assigned, numbered stake, and only one hunting party may occupy a staked site at any given time. Starting on day 5 and for the remainder of the waterfowl season, hunting is allowed on a first come-first served basis and hunting need not occur by a stake. Waterfowl hunters must maintain a distance of 200 yards between hunting parties.
- iv) A drawing for stake allocation will be done at the site office by mail no later than 4 weeks before the opening day of duck season. The application deadline and procedure will be publicly announced. Hunters who wish to hunt together at a staked location must register as a hunting party. Only 4 persons shall be in a hunting party. Only those persons in that party may hunt at the assigned stake. No later than 2 weeks prior to duck season, at least one person from each of the hunting parties drawn should appear at the site office to choose a staked site in the order that the hunting parties were drawn.
- F) Handicapped accessible waterfowl hunting blind (Dry Lake Access Area)

DEPARTMENT OF NATURAL RESOURCES

NOTICE OF ADOPTED AMENDMENTS

- i) Application for hunting dates should be received at the site office September 1-10 and will be allocated on a first request basis or via a drawing, if needed.
- ii) Three hunters are allowed in the blind. At least one hunter must have a P-2 handicapped certification.
- iii) Hunters must sign in/out and report harvest at check station after hunting.

- 20) Kinkaid Lake Fish & Wildlife Area (1)
- 21) Lake Shelbyville (except for land/waters covered in subsection (b)(22) of this Section) (1)
- 22) Lake Shelbyville West Okaw and Kaskaskia Fish and Wildlife Area

A) Waterfowl hunting shall be permitted as described below except in duly posted restricted and "No Hunting" areas.

B) Waterfowl hunting in the Fish Hook, the North Dunn, the McGee, and the Jonathan Creek Waterfowl Areas shall be allotted by a daily drawing from opening day through the first Saturday and Sunday of the regular waterfowl season. Parties must register for drawings between 3:00 a.m. and 4:00 a.m. Central Standard Time at the check station on those days. Each party drawn shall be allowed to choose one of the staked sites in the waterfowl area. Parties must select sites in the order they are drawn. Maximum party size is 4 persons, except on the statewide youth waterfowl hunting day, as authorized in Section 598-15(f), 5 persons may occupy a blind at one time only if the party is comprised of 2 youth hunters, their non-hunting parents and one non-hunting guide. In addition, the following regulations shall apply:

- i) All parties must hunt within 10 yards of their assigned stake.
- ii) All parties must be in place by 1/2 one-half hour before hunting time.
- iii) All parties are required to report their harvest by 2:00 p.m. following each hunt.
- C) Hunting in the Jonathan Creek, North Dunn and McGee Waterfowl Areas shall be restricted to designated, staked sites on a first come-first served basis except as noted in subsections (b)(22)(A) and (B) above. Hunting in the Fish Hook Area shall be restricted to designated, staked sites on a first come-first served basis until the opening of the Illinois southern zone duck season, except as noted in subsections (b)(22)(A) and (B) above. A hunting party must hunt within 10 yards of the stake.
- D) Each hunting party in the Fish Hook, Dunn, Jonathan Creek and McGee Waterfowl Areas are required to hunt over a minimum of 12 decoys.
- E) Motors of over 10 horsepower shall not be operated in the Fish Hook, Jonathan Creek, Dunn, and McGee Waterfowl Areas.

DEPARTMENT OF NATURAL RESOURCES

NOTICE OF ADOPTED AMENDMENTS

- F) Waterfowl hunting only is permitted in the Fish Hook, Dunn, Jonathan Creek and McGee Waterfowl Areas during the regular waterfowl season, except that pheasant, rabbit and quail hunting is permitted after 1:00 p.m. daily beginning the day after the close of the Central Zone Duck Season.
- G) During the regular waterfowl season, no bank or boat fishing shall be permitted on the Kaskaskia River from the Strickland Boat Access north to the Illinois Central Railroad bridge from 1/2 one-half hour before sunrise until 1:00 p.m.
- H) A free permit is required, which is obtained from the site office. Permits must be in possession while hunting waterfowl. The permit must be returned and harvest reported by February 15 or the hunter will forfeit his hunting privileges at this site for the following year.

23) Marshall State Fish and Wildlife Area - Duck Ranch Unit Only

A) On days open to hunting, blind sites shall be allocated by a random drawing held at Marshall State Fish and Wildlife Area (MSFWA) check station, 5 miles south of Lacon on S.R. 26. The drawing will be conducted 60 minutes prior to legal shooting time. Hunters shall register as parties for the drawing; each party drawn shall be allowed to select hunting blinds in the order drawn. No more than 4 hunters per party; only registered party members shall be allowed to hunt in the party's blind.

B) Blinds not selected during the drawing shall be allocated on a first come-first served basis. Vacant staked sites shall not be allocated after the drawing until one hour after legal hunting time. No blind sites shall be allocated after 11:00 a.m. Daily hunting hours will close at 1:00 p.m.

C) All hunting must be from a designated blind. Refilling or changing blinds is not permitted.

D) Hunters are required to report their harvest at the end of the day's hunt on a harvest card located in the blind. Hunters are not required to report back to the MSFWA check station.

E) No hunting on Monday, Wednesday, or Friday.

24) 23) Meredosia Lake - Cass County Portion Only (meandered waters only)

A) All boat traffic is prohibited from operating on meandered waters (except non-motorized boats may be used to assist in the retrieval of waterfowl shot from private land) from the period from one week before waterfowl season opens until the season closes.

B) Hunting and/or any other activity is prohibited during the period from one week before waterfowl season opens until the season closes.

25) 24) Mermet

DEPARTMENT OF NATURAL RESOURCES

NOTICE OF ADOPTED AMENDMENTS

- A) Waterfowl hunting shall be permitted only during the duck hunting season.
- B) Hunting is allowed in both the walk-in and blind areas only. Those individuals wishing to hunt in the walk-in area are required to deposit their hunting licenses and register at the check station prior to entering the area. Individuals who wish to use the blind area are required to deposit their hunting licenses and participate in a daily drawing during which blinds shall be assigned. Hunting parties shall not change blinds without prior approval from the check station operator. Those persons exempted by law from having hunting licenses must deposit their Firearm Owner's Identification Cards.
- C) The daily drawing shall be held one hour prior to legal opening time.
- D) All members of the hunting party shall register as a group (not to exceed 4 persons per group, except on the statewide Youth Waterfowl Hunting Day, as authorized in Section 590.15(f)). 5 persons may occupy a blind at one time only if the party is comprised of 2 youth hunters, their non-hunting parents and one non-hunting guide) for the purpose of the drawing.
- E) Those hunters in the blind area shall park in designated areas. These parking areas shall be numbered to correspond with particular blind sites located along the levee road.
- F) In the blind area, a minimum of 12 decoys per blind is required while hunting waterfowl.
- G) Boats without motors may be used in the walk-in areas.
- H) No hunting Christmas Day.
- 26)25) Newton Lake Fish and Wildlife Area
- A) Blind sites shall be allocated by a daily drawing to be conducted at 4:30 a.m. 90-minutes--prior--to--hunting--time-- Blind sites not selected during the drawing (or in the event that personnel are not available to conduct drawing) shall be allocated on a first come-first served basis until one hour before shooting time, and then after 9:00 a.m. All hunters must register before entering the hunting area.
- B) ~~All hunting must be from registered--blind--sites--only--and hunters--must--occupy--their--blinds--within--one-hour--after registering--at--the--check--station--~~
- B) Upon vacating their blinds, all hunters must place their completed harvest cards in the collection box located at the boat ramp.
- C) There will be duly posted waterfowl refuges. These areas shall be closed to all boat traffic and boat fishing during the waterfowl season.
- D) No more than 4 persons shall occupy a blind at one time.
- E) The west arm of the lake shall be closed to all waterfowl

DEPARTMENT OF NATURAL RESOURCES

NOTICE OF ADOPTED AMENDMENTS

- hunting.
- F) Blind sites shall be determined by the Department of Natural Resources and marked with numbered stakes. When it is deemed necessary, the Department shall remove, move or close blind sites in order to carry out the operations of the overall management program.
- G) Hunters wishing to move to another vacant blind location may do so on a first come-first served basis, providing they include the blind change on the harvest card and report their kill for each blind. If hunters do not occupy the stake they have drawn by legal shooting time, they forfeit the right to the staked hunting location.
- H) Access to blind sites shall be by boat only and from the west side boat ramps.
- I) All hunting must be from one portable blind or one anchored portable boat blind located within--a--numbered-cove--and between the assigned numbered stakes, no more than 10 yards from shore.
- J) Crippled waterfowl that fall on land, other than areas designated as refuge, shall be retrieved by foot. However, no gun may be carried while attempting to recover such birds.
- K) No pits--or--blinds--shall--be--built--on--State--lease--Amenity/EIPS land--
- K) Blind site: A position between 2 two like numbered stakes where a blind may be located.
- L) Fishing shall be prohibited in the east arm of the lake during the waterfowl season.
- M) Each party must hunt over a minimum of 12 decoys, and all decoys must be removed at the end of each day's hunt.
- N) When it is deemed necessary for public safety reasons, such as flooding, high winds, or heavy fog, the Department will close the lake area to all fishing and all boating activity except for non-water hunting programs.
- O) This site is closed to all users except firearm deer hunters during the firearms deer seasons.
- 27)26) Oakford Conservation Area (1)
- 28)27) Ray Norbut State Fish and Wildlife Area (1)
- Statewide season regulations apply except that the season closes December 15 in Eagle Roost Area, or the legal statewide closing, whichever is earlier.
- 29)28) Rend Lake Project Lands and Waters
- A) All waterfowl hunters and all boats must be out of the Casey Fork and Big Muddy subimpoundments by 2:00 p.m. each day of the waterfowl season and not return until 4:30 a.m., except during the last 3 days of the Canada goose season, and during any goose season occurring after the Canada goose season, hunters must be out of the areas by one hour after

DEPARTMENT OF NATURAL RESOURCES

NOTICE OF ADOPTED AMENDMENTS

- sunset and not return until 4:30 a.m.
- B) No hunting permitted from the subimpoundment dams.
- C) While waterfowl hunting, no one may have in his/her possession any tool or device designed to cut brush or limbs, except common hunting knives and pocket knives.
- D) No waterfowl hunting permitted within 200 yards of the refuge boundary, or within 100 yards of any private property boundary.
- E) All boat traffic is prohibited from entering the subimpoundments from one 1/2 week before waterfowl season until opening day of waterfowl season.
- F) All waterfowl hunters must sign in prior to hunting and sign out and report their harvest at the end of each day's hunt.
- G) Permanent blinds at the Whistling Wings Access Area shall be regulated as follows:
- During goose season, a separate drawing will be held for the pits at Whistling Wings. This drawing will be held at the Cottonwood check station following the drawing for staked hunting sites. Hunters may not register for more than one drawing per day. Unsuccessful hunters in the drawing for Whistling Wings pits may select any unclaimed staked location after the drawings.
 - Hunters who wish to hunt together must register as a hunting party and be present at the drawing.
 - All hunters must have the registration card from the check station in their possession while hunting.
 - Hunters must occupy the pit they have drawn by legal shooting time. If a pit is not occupied by legal shooting time, another party who has registered at the check station may occupy the unclaimed pit.
 - No more than 6 dozen decoys may be used per pit.
 - No more than 4 hunters will be allowed in a pit or hunting party.
- H) Each hunting party is required to hunt over a minimum of 12 decoys at each blind site, and all decoys must be picked up at the end of each day's hunt.
- I) During the last 3 days of Canada goose season and during any goose seasons occurring after Canada goose season, hunting hours shall close at sunset daily.
- J) The land portion of the Rend Lake Refuge is closed to trespassing during waterfowl season. The location of the Rend Lake Refuge is described as follows:
- Bounded on the south by a buoy line, approximating the Jefferson-Franklin County Line.
 - Bounded on the east by a buoy line and/or signs approximating the channel of the Casey Fork Creek.
 - Bounded on the west by a buoy line and/or signs

DEPARTMENT OF NATURAL RESOURCES

NOTICE OF ADOPTED AMENDMENTS

- approximating the channel of the Big Muddy River.
- Bounded on the north portion of the Big Muddy River by a buoy line and/or signs approximating a line which would extend west from Ina, Illinois.
 - Bounded on the north portion of the Casey Fork Creek by the Casey Fork Subimpoundment Dam.
 - Bounded on Nason Point by refuge boundary signs at project limits.
- K) After the close of regular duck season, goose hunters may not possess more than 5 shot shells for every Canada goose allowed in the daily bag limit.
- L) Staked Hunting Areas - Those areas designated as a staked hunting area will be publicly announced and the following regulations will apply:
- All hunting must occur within 10 yards of an assigned, numbered stake except for stakes identified at the check station where hunters may hunt from any place in the field in which the stake is located and only one hunting party may occupy a staked site at any given time.
 - Stakes will be assigned via a daily drawing held at 4:00 a.m. during November, 4:30 a.m. in December, and 5:00 a.m. in January. Check stations will be open from 1/2 hour before drawing time to 9:30 a.m. daily.
 - Check station at the Bonnie Dam Access Area will be operated on a daily basis through the second weekend of the waterfowl season. Thereafter, Bonnie Dam check station will only be open on weekends and holidays as posted at the check station. Cottonwood Access Area will be operated on a daily basis throughout the waterfowl season for both Bonnie Dam and Cottonwood Hunting Areas. Hunters who wish to hunt together at a staked location must register as a hunting party and be present for the drawing. Only those persons in that party may hunt at the assigned stake. No more than 5 persons shall be in a hunting party.
 - Hunters arriving at the check station after the draw may enter the staked area only if it is one hour prior to shooting time or between 9:00 a.m. and 9:30 a.m. All hunters must register at the check station.
 - When a staked hunting location is vacated by a hunting party any other registered hunting party may claim the vacant stake on a first come-first served basis. If hunters do not occupy the stake they have drawn by legal shooting time, they forfeit the right to the staked hunting location.
 - When hunting parties have killed their legal daily bag limit of ducks (not including coots and mergansers)

DEPARTMENT OF NATURAL RESOURCES

NOTICE OF ADOPTED AMENDMENTS

and/or Canada geese in respect to the legal hunting season dates they must vacate the hunting site.

- vii) Hunters must sign in and out and report their harvest on the cards at the access area where they launch.

30)29† Saline County Conservation Area (1)

- A) Waterfowl hunting is allowed north of the township road only.

- B) Walk-in hunting only.

- C) Hunters must sign in prior to hunting and sign out reporting harvest at the end of each day.

31)30† Sand Ridge State Forest (Sparks Pond Land and Water Reserve) (1)

- A) Hunting is permitted on Tuesdays and Saturdays during the duck season. Permits are issued on a first come-first served basis.

- B) Two hunters are allowed per blind. At least one hunter must have a P-2 handicapped certification.

- C) Hunters must report harvest to site office.

32)31† Sanganois State Fish and Wildlife Area

- A) Hunters using the main walk-in hunting area from opening day of the Central Zone duck season through the first Sunday of the Central Zone duck season must have a permit issued from the site office. Procedures for issuance of permits will be publicly announced.

- B)† Hunters using the walk-in area shall use the check station at the headquarters area located 8 miles northwest of Chandlerville just off Route 78 or the check station on the west side of the Illinois River one mile north of Browning near Route 100.

- C)† Walk-in waterfowl hunting shall be permitted only in the area posted for this purpose.

- D)† All hunters using a walk-in area must report to the check station to fill out information cards and to turn in hunting licenses or Firearm Owner's Identification Cards before proceeding to area.

- E) Topper's Hole is a walk-in area accessed by boat only, no check-in, check-out, no permanent blinds, hunting parties must stay at least 200 yards apart, hunting parties shall hunt over no less than 12 decoys, daily hunting hours are legal shooting hours through 1:00 p.m. CST.

- F)† The Baker tract is a daily-draw walk-in area with 4 separate hunting compartments. One party of hunters (up to 4 hunters per party) will be permitted to hunt in each hunting compartment. The allocation of the 4 Baker tract hunting compartments will be by daily draw as part of the site's daily draw vacant blind allocation. Parties must register for the draw together on the same card.

- G)† Upon the completion of hunting, hunters must report to the

DEPARTMENT OF NATURAL RESOURCES

NOTICE OF ADOPTED AMENDMENTS

check station within one hour.

- H)† Fishing is prohibited in the impoundment areas during the duck season, except that walk-in only access for fishing from the bank is permitted after 1:00 p.m.

- I)† No person shall trespass on the Barkhausen Refuge during the period from October 1 through end of goose season.

- J)† No person shall trespass on the Marion-Pickrel Waterfowl Refuge during the period from October 1 through the last day of the waterfowl season, unless prior permission for a specific reason (such as access to private land or to retrieve dead or wounded game) is granted by the site superintendent.

- K)† When the central zone goose season extends beyond the duck season, goose hunting shall be permitted with statewide hunting hours in effect. Hunters need not occupy a blind. All hunting must be conducted within non-refuge areas.

- L)† No hunting permitted from the walk-in area subimpoundment levee.

- M)† Hunters may use boats without motors in the walk-in area; the construction and/or use of permanent blinds in the walk-in area is prohibited.

33)32† Sangchris Lake State Park

- A) During the last 3 days of the regularly scheduled Canada goose season, hunting hours will close at statewide closing.

- B) Blind sites shall be allocated by a daily drawing to be conducted 90 minutes prior to hunting time. Blind sites not selected during the drawing (or in the event that personnel are not available to conduct the drawing) shall be allocated on a first come-first served basis. (During that portion of the Canada goose season which follows the duck season, the west side goose pit area, the west arm blind sites and east arm blind sites south of power lines shall be available for goose hunting and shall be allocated on a daily drawing basis to be held at 5:30 a.m. daily.)

- C) During that portion of the light goose season which follows the regular Canada goose season, the west-side goose pit area blinds, subimpoundment blinds, and designated fields west of the west boat ramp shall be available daily on a first come-first served basis. Hunters must sign in at the appropriate parking area no earlier than 5 a.m.

- D) All hunting must be from registered blind sites only and hunters must occupy their blinds within one hour after registering at the check station.

- E) Upon vacating their blinds, hunters must place their completed harvest cards in the collection boxes located at either the east or west boatdock.

- F) There will be a duly posted waterfowl refuge. These areas shall be closed to all boat traffic (except as allowed in

DEPARTMENT OF NATURAL RESOURCES

NOTICE OF ADOPTED AMENDMENTS

subsection (b)(32)(J)) and boat fishing during the waterfowl season. Bank fishing along the dam shall be permitted.

G) No more than 4 persons shall occupy a blind at one time.

H) The center arm of the lake shall be closed to all waterfowl hunting.

I) Blind sites shall be determined by the Department of Natural Resources and marked with a numbered stake. When it is deemed necessary, the Department of Natural Resources shall remove, move or close blind sites in order to carry out the operations of the overall management program.

J) Hunters wishing to move to another blind location may do so after 10 a.m. providing they include the blind change on the harvest card and report their kill for each blind.

K) Access to water blind sites shall be by boat only and from designated boat launch sites. Blinds on the peninsula subimpoundment shall be accessed on foot once the hunter has reached the peninsula by boat. Corridors located along the edges of the existing refuge will be established to provide access to all available blind sites as designated by site superintendent when conditions warrant.

L) All hunting must be from one ± portable blind or one ± anchored portable boat blind located within a numbered cove and between the assigned numbered stakes or from one ± Department designated blind or pit.

M) Crippled waterfowl that fall on land, other than areas designated as refuge, shall be retrieved by foot. However, no gun may be carried while attempting to recover such birds.

N) No unauthorized pits or blinds shall be built on State managed land.

O) Blind sites: A position between 2 two like numbered stakes within a cove or other Department designated site where a blind may be located.

P) Fishing shall be prohibited in the east and west arms of the lake during the period from 14 10 days prior to the duck season through the end of the duck season. Fishing shall be prohibited in the west arm of the lake and the east arm of the lake south of the power lines during that portion of the Canada goose season that follows the duck season.

Q) Each party must hunt over a minimum of 12 decoys, and all decoys must be removed at the end of each day's hunt (except at peninsula subimpoundments where only Department decoys may be used).

R) When it is deemed necessary for public safety reasons, such as flooding, high winds, or heavy fog, the Department of Natural Resources will close the lake area to all fishing and all boating activity except for non-water hunting programs.

DEPARTMENT OF NATURAL RESOURCES

NOTICE OF ADOPTED AMENDMENTS

S) During flood conditions, waterfowl hunters may hunt the tailwaters of Sangchris Lake dam including Clear Creek and the South Fork of the Sangamon River. Decoys must be removed at the end of each day's hunt.

T) West-side goose pit area blinds will be available every day each week except Tuesday and Wednesday, through the regular Canada goose season, except for the Tuesday and Wednesday preceding the last day of the Canada goose season.

U) Hunters in the west-side goose pit area may not possess more than 5 shot shells for every Canada goose allowed in the daily bag limit.

33) ~~Sato-Pied~~

~~Waterfowl--hunters--must--obtain--permit--prior-to-hunting--Permit must-be-returned-by-February-15.~~

34) Shawnee National Forest, Upper and Lower Bluff Lakes

Goose hunting is prohibited at Lower Bluff Lake.

35) Shawnee National Forest, Lake Scatters

All hunting must be by walking in or in boats without motors.

36) Shawnee National Forest, Oakwood Bottoms (Green Tree Reservoir west of the Big Muddy levee)

A) All hunting must be by walking into the area.

B) Each hunting party must hunt over a minimum of 12 decoys in Compartments 19, 20 and 21.

C) No person shall tamper with or attempt to manipulate any of the gates, pumps or structures in the subimpoundment area.

37) Sielbeck Forest Natural Area (1)

38) Stephen A. Forbes State Park

A) On the main lake hunting is allowed from a boat blind only in the designated areas.

B) Only walk-in hunting is allowed in the subimpoundment.

C) Hunting shall be allowed on a first come-first served basis. All hunters must use 12 decoys, minimum.

39) Ten Mile Creek Fish and Wildlife Area (1)

A) Waterfowl hunters must obtain permits prior to hunting. Permits must be returned by February 15.

B) Each hunting party is required to hunt over a minimum of 12 decoys at each blind site, and all decoys must be picked up at the end of each day's hunt.

C) Areas designated as Rest Areas are closed to all access during the Canada Goose Season only. Rest Area designation has been given to that part of the Belle River unit that lies south of Auxier Creek and is posted as Rest Area, and the 250 acre tract at the Western edge of the Eads Mine unit.

D) After the close of the duck season, goose hunters in that portion of Ten Mile Creek that lies in the Rend Lake Quota Zone may not possess more than 5 shot shells for every Canada goose allowed in the daily bag limit.

DEPARTMENT OF NATURAL RESOURCES

NOTICE OF ADOPTED AMENDMENTS

- 40) Turkey Bluffs State Fish and Wildlife Area (All hunters must sign in and out and report kill) (1)
- 41) Union County (Firing Line Waterfowl Management Area)
- A) Blind sites shall be allocated on a daily draw basis at the site shop building 60 minutes prior to hunting time. Hunters shall register as parties for the drawing; each party drawn shall be allowed to select a blind site in order drawn; only those hunters registered in a party shall be allowed to hunt with their party; no less than 2 hunters and no more than 4 hunters per party; persons under the age of 16 shall not be allowed to hunt unless accompanied by an adult.
- B) Blinds not allocated during the drawing will not be hunted that day. Moving from blind to blind is not allowed.
- C) Access to blind sites is from Clear Creek Levee only.
- D) All hunting must be from assigned blinds or within 30 feet of the assigned, numbered, hunter stake site.
- E) Each hunting party must hunt over a minimum of 12 decoys. Decoys must be picked up immediately after the hunt is over.
- F) Hunting hours end at 1:00 p.m. and all hunters must be out of the area by 2:00 p.m. Daily entry into the area is restricted until after the drawing for hunting sites.
- G) When duck season is closed, hunters may not possess more than 5 shot shells for every Canada goose allowed in the daily bag limit.

(Source: Amended at 25 Ill. Reg. 14131, effective 01-22-2001)

Section 590.80 Early and Late Goose (all species) Hunting Regulations on Department Sites

- a) During goose hunting seasons that begin before or extend beyond the regular duck season, statewide regulations and site specific regulations for goose hunting, as indicated in Sections 590.40, 590.50 and 590.60, shall apply to all sites (except those closed in subsections (c), (d) and (e)) with the following exceptions:
- 1) Check in and check out (or sign in and out) is required only at sites with an asterisk (*).
 - 2) No fees will be charged for hunting for seasons before duck season or for seasons after the regular Canada goose season.
 - 3) No sites are closed to fishing during seasons before the regular duck season or for seasons after the regular Canada goose season.
 - 4) Hunting from a completed blind or staked site is waived during seasons held before the regular duck season or for seasons held after the regular Canada goose season at sites marked with an @.
 - 5) Hunting from a staked site (blind need not be completed) is required during seasons held before the regular duck season at

DEPARTMENT OF NATURAL RESOURCES

NOTICE OF ADOPTED AMENDMENTS

- sites marked with a #.
- 6) During goose seasons held prior to regular duck season, no hunting is allowed in designated dove management fields or within 100 yards of such fields.
- 7) During goose seasons held after the Canada goose season all restrictions regarding the use of decoys or the number of shotgun shells that hunters can possess are no longer in force.
- 8) During goose seasons held after Canada goose season, statewide hunting hours apply.
- b) The following sites will be opened to all goose hunting seasons:
- Blanding Wildlife Area @
- Cache River Natural Area *
- Carlyle Lake Project Lands and Waters, including North Allen Branch Waterfowl Management Area Water (no early goose hunting east of Kaskaskia River from Cox's Bridge Access north to the Department's boundary line) *
- Chain O'Lakes State Park #
- Chauncey Marsh (permit required, available at Red Hills State Park)
- Des Plaines Conservation Area #
- Dog Island Wildlife Management Area *
- Fort de Chartres Historic Site
- Horseshoe Lake State Park (Madison County) (snow goose season closes February 28) #
- Kaskaskia River State Fish and Wildlife Area (applicable to Baldwin Lake waterfowl rest area only; hunting must occur within 10 yards of a numbered stake; one hunting party (maximum 4 hunters) per stake; no permanent blinds; for the first 4 weeks after the regular Canada goose season, stakes will be allocated via a drawing at the site office by mail; the application deadline and procedure for this drawing will be publicly announced; hunting hours, based on Baldwin Lake's public use hours, will be posted at gate)*
- Kinkaid Lake Fish and Wildlife Area
- Lake Shelbyville (except West Okaw and Kaskaskia Fish and Wildlife Area; season opens with teal season)
- Marshall State Fish and Wildlife Area - Sparland and Duck Ranch Units

DEPARTMENT OF NATURAL RESOURCES
NOTICE OF ADOPTED AMENDMENTS

Marshall State Fish and Wildlife Area - Spring Branch and Marshall
Units * @

Mississippi River Fish and Waterfowl Management Area (Pools 25 and 26)
@

Mississippi River Pools 16, 17 and 18 @

Mississippi River Pools 21, 22, and 24 @

Oakford Conservation Area

Rend Lake Project Lands and Waters @

Saline County Conservation Area *

Shawnee Forest, LaRue Scatters

Shawnee Forest, Oakwood Bottoms

Sparsand-Fish-and-Wildlife-Area-@

Ten Mile Creek Fish and Wildlife Area (permit required; rest areas
open to hunting during goose season before and after the regular goose
season)

Turkey Bluffs State Fish and Wildlife Area *

Woodford Fish and Wildlife Area * @

c) The following sites will be open to any goose hunting seasons that
occur before the regular duck season through the end of the regular
Canada Goose Season:

Anderson Lake (closed after regular duck season) * @

Coffeen State Fish and Wildlife Area (hunting from legal hours to 9:00
a.m.; all hunters must sign out by 10:00 a.m.) * #

Lake Shelbyville West Okaw and Kaskaskia Fish and Wildlife Area (must
have site specific permit; season opens with teal season)

Ray Norbut State Fish and Wildlife Area *

Rice Lake (season opens with teal season; sunrise until 1:00 p.m.;
closed after regular duck season) * @

DEPARTMENT OF NATURAL RESOURCES
NOTICE OF ADOPTED AMENDMENTS

d) The following sites will be opened to all goose hunting during any
Canada goose hunting seasons that occur after the regular duck season:

Banner Marsh * @

Braidwood State Fish and Wildlife Area *

Heidecke State Fish and Wildlife Area *

Kankakee River State Park

Lake DePue Fish and Wildlife Area *

Lake Sennissippi Fish and Wildlife Area

Newton Lake Fish and Wildlife Area *

Pekin Lake Fish and Wildlife Area

Spring Lake Fish and Wildlife Area (hunting from registered blinds or
within 10 feet of staked blind sites is permitted after the close of
the duck season) *

Starved Rock State Park *

e) The following sites will be opened to any goose hunting seasons that
occur after the regular Canada goose hunting season:

Clinton Lake State Recreation Area (season closes March 15)

Horseshoe Lake Conservation Area (controlled hunting and public
hunting areas) *

Peabody-River-King-State-Fish-and-Wildlife-Area--(hunting--must--occur
within--10--yards--of--a--numbered-stake; one-hunting-party--(maximum--4
hunters)--per-stake; no-permanent-blinds; for-the-first-4--weeks--after
the--regular--Canada--goose--season;--stakes--will--be-allocated-via-a
drawing-at-the-Kaskaskia-River-State-Fish-and-Wildlife-Area-Office--by
mail;--the-application-deadline-and-procedure-for-this-drawing-will-be
publicly-announced; hunting-hours; based-on-the-site's-hours; will-be
posted-at-gate)--*

Sanganois State Fish and Wildlife Area * @

Sangchris Lake State Park *

Stephen A. Forbes State Park *

DEPARTMENT OF NATURAL RESOURCES
NOTICE OF ADOPTED AMENDMENTS

- 1) Heading of the Part: The Taking of Wild Turkeys - Spring Season
- 2) Code Citation: 17 Ill. Adm. Code 710
- 3) Section Numbers: Adopted Action:
710.10 Amendment
710.20 Amendment
710.22 Amendment
710.25 Amendment
710.30 Amendment
710.50 Amendment
- 4) Statutory Authority: Implementing and authorized by Sections 1.3, 1.4, 1.20, 2.9, 2.10 and 2.11 of the Wildlife Code [520 ILCS 5/1.3, 1.4, 1.20, 2.9, 2.10 and 2.11].
- 5) Effective Date of Amendments: October 22, 2001
- 6) Does this rulemaking contain an automatic repeal date? No
- 7) Does this rulemaking contain incorporations by reference? No
- 8) A copy of the adopted amendment, including any material incorporated by reference, is on file in the agency's principal office and is available for public inspection.
- 9) Notice of Proposal Published in Illinois Register: August 3, 2001, 25 Ill. Reg. 9810
- 10) Has JCAR issued a Statement of Objections to these rules? No
- 11) Differences between proposal and final version: Section 710.20(a) - changed "15.00" to read "\$15"
Section 710.22(c) - changed "that" to "who"
Section 710.30(h) - changed "onto" to "on"
Section 710.50(c) - Kaskaskia - changed "can" to "may" and "first-come, first-served" to "first come-first served"
Section 710.50(d) - changed to read as follows: Mississippi Palisades State Park closed during the fifth season (closes-after-the-second-Sunday of-the-fourth-season;--fourth-season--permits-will-be-limited-to-those remaining-after-the-disabled-hunt-drawing-closed-during-the-fifth-season) (1)
- 12) Have all the changes agreed upon by the agency and JCAR been made as

DEPARTMENT OF NATURAL RESOURCES
NOTICE OF ADOPTED AMENDMENTS

- Snake Den Hollow * @
- Union County Conservation Area (firing line and controlled hunting area) *
- William W. Powers Conservation Area
- f) The following sites will be closed to all goose hunting seasons that occur outside the regular duck season dates:
- Campbell Pond Wildlife Management Area
- Donnelley Fish and Wildlife Area
- Mazonia State Fish and Wildlife Area *
- Meredosia Lake (Cass County portion only, meandering waters only)
- Mermet Lake Fish and Wildlife Area
- Powerton Reservoir
- Redwing Slough/Deer Lake
- Shawnee Forest, Upper and Lower Bluff Lakes
- g) The following sites will be open to any goose hunting seasons that occur before the regular duck season and after the regular Canada goose season:
- Kidd Lake State Natural Area

(Source: Amended at 25 Ill. Reg. 14131^u, effective 001222001)

DEPARTMENT OF NATURAL RESOURCES

NOTICE OF ADOPTED AMENDMENTS

indicated in the agreements issued by JCAR? Yes

13) Will this rulemaking replace an emergency rule currently in effect? No

14) Are there any amendments pending on this Part? No

15) Summary and Purpose of Rulemaking: This Part was amended to update season dates; open additional counties to hunting; update turkey permit requirements to add language indicating that resident permit applications will receive preference over non-resident applications, add language indicating that landowners/tenants not residing on their property must possess a valid hunting license, and change shareholder information to include bona-fide equity shareholders; add Joliet Army Training Area to the sites with special hunts; add information regarding leg tags; and update site regulations and add additional sites.

16) Information and questions regarding these adopted amendments shall be directed to:

Jack Price
Department of Natural Resources
524 S. Second Street, Room 430
Springfield IL 62701-1787
217/782-1809

The full text of the adopted amendments begins on the next page:

DEPARTMENT OF NATURAL RESOURCES

NOTICE OF ADOPTED AMENDMENTS

TITLE 17: CONSERVATION

CHAPTER I: DEPARTMENT OF NATURAL RESOURCES

SUBCHAPTER e: LAW ENFORCEMENT

PART 710

THE TAKING OF WILD TURKEYS - SPRING SEASON

Section	
710.5	Hunting Zones
710.10	Hunting Seasons
710.20	Statewide Turkey Permit Requirements
710.21	Turkey Permit Requirements - Special Hunts (Renumbered)
710.22	Turkey Permit Requirements - Landowner/Tenant Permits
710.25	Turkey Permit Requirements - Special Hunts
710.28	Turkey Permit Requirements - Heritage Youth Turkey Hunt (Repealed)
710.30	Turkey Hunting Regulations
710.40	Other Regulations (Repealed)
710.50	Regulations at Various Department Owned or Managed Sites
710.55	Special Hunts for Disabled Hunters
710.60	Releasing or Stocking of Turkeys

AUTHORITY: Implementing and authorized by Sections 1.3, 1.4, 1.20, 2.9, 2.10 and 2.11 of the Wildlife Code [520 ILCS 5/1.3, 1.4, 1.20, 2.9, 2.10 and 2.11].

SOURCE: Adopted at 4 Ill. Reg. 15, p. 153, effective April 1, 1980; codified at 5 Ill. Reg. 10643; amended at 6 Ill. Reg. 3852, effective March 31, 1982; amended at 7 Ill. Reg. 4208, effective March 25, 1983; amended at 8 Ill. Reg. 5663, effective April 16, 1984; amended at 9 Ill. Reg. 6200, effective April 24, 1985; amended at 10 Ill. Reg. 6848, effective April 4, 1986; amended at 11 Ill. Reg. 2267, effective January 20, 1987; amended at 12 Ill. Reg. 5342, effective March 8, 1988; amended at 13 Ill. Reg. 5090, effective April 4, 1989; amended at 14 Ill. Reg. 663, effective January 2, 1990; amended at 15 Ill. Reg. 4161, effective March 4, 1991; amended at 16 Ill. Reg. 1843, effective January 17, 1992; amended at 17 Ill. Reg. 3184, effective March 2, 1993; amended at 18 Ill. Reg. 1156, effective January 18, 1994; emergency amendment at 18 Ill. Reg. 3751, effective March 1, 1994, for a maximum of 150 days; emergency expired July 29, 1994; amended at 19 Ill. Reg. 2450, effective February 17, 1995; emergency amendment at 19 Ill. Reg. 5312, effective April 1, 1995, for a maximum of 150 days; emergency expired August 29, 1995; amended at 20 Ill. Reg. 777, effective December 29, 1995; recodified by changing the agency name from Department of Conservation to Department of Natural Resources at 20 Ill. Reg. 9389; amended at 21 Ill. Reg. 3125, effective March 3, 1997; amended at 22 Ill. Reg. 2192, effective January 2, 1998; amended at 23 Ill. Reg. 19568, effective October 23, 1998; amended at 23 Ill. Reg. 11956, effective September 21, 1999; amended at 24 Ill. Reg. 7984, effective May 24, 2000; amended at 24 Ill. Reg. 17778, effective November 27, 2000; amended at 25 Ill. Reg. 14176, effective October 22, 2001.

DEPARTMENT OF NATURAL RESOURCES
NOTICE OF ADOPTED AMENDMENTS

Section 710.10 Hunting Seasons

a) Northern Zone Season Dates:

- 1st Season: Monday, April 15~~16~~ - Friday, April 19, 2002 ~~20~~7
200~~1~~
- 2nd Season: Saturday, April 20~~21~~ - Thursday, April 25, 2002
267-200~~1~~
- 3rd Season: Friday, April 26~~27~~ - Wednesday, May 1, 2002
Friday, ~~May 4, 2001~~
- 4th Season: Thursday, May 2 - Wednesday, May 8, 2002
Saturday, ~~May 5 - Wednesday, May 16, 2001~~
- 5th Season: Thursday, May 9 - Thursday, May 16, 2002

b) Southern Zone Season Dates:

- 1st Season: Monday, April 8~~9~~ - Friday, April 12, 2002 ~~13~~7
200~~1~~
- 2nd Season: Saturday, April 13~~14~~ - Thursday, April 18, 2002
~~197-2001~~
- 3rd Season: Friday, April 19~~20~~ - Wednesday, April 24, 2002
Friday, ~~April 27, 2001~~
- 4th Season: Thursday, April 25 - Wednesday, May 1, 2002
Saturday, ~~April 20 - Wednesday, May 9, 2001~~
- 5th Season: Thursday, May 2 - Thursday, May 9, 2002

c) Open Counties:

- NORTHERN ZONE
Adams
Boone
Brown
Bureau
Calhoun
Carroll
Cass
Champaign
Christian
Clark
Coles
Cumberland

- Dekalb
Dewitt
Edgar
Fulton
Greene
Grundy
Hancock
Henderson
Henry
Iroquois
Jersey
Jo Daviess
Kankakee
Kendall
Knox
LaSalle
Lee
Livingston
Logan
Macon
Macoupin
Marshall-Putnam
Mason
McDonough
McHenry
McLean
Menard
Mercer
Montgomery
Morgan
Moultrie
Ogle
Peoria
Piatt
Pike
Rock Island
Sangamon
Schuyler
Scott
Shelby
Stark
Stephenson
Tazewell
Vermilion
Warren
Whiteside
Will
Winnebago

DEPARTMENT OF NATURAL RESOURCES

NOTICE OF ADOPTED AMENDMENTS

Woodford
SOUTHERN ZONE
Alexander
Bond
Clay
Clinton
Crawford
Edwards
Effingham
Fayette
Franklin
Hamilton
Gallatin-Hardin
Jackson
Jasper
Jefferson
Johnson
Lawrence
Madison
Marion
Massac
Monroe
Perry
Pope
Pulaski
Randolph
Richland
Saline
St. Clair
Union
Wabash
Washington
Wayne
White
Williamson

(Source: Amended at 25 Ill. Reg. 14176, effective OCT 22 2001)

Section 710.20 Statewide Turkey Permit Requirements

- a) To take, or attempt to take, a wild turkey, Illinois residents must first obtain a "Wild Turkey Hunting Permit" from the Department of Natural Resources for a fee of \$15-00. Non-resident turkey hunters shall be charged the maximum fee as allowed by Section 2.11 of the Wildlife Code [520 ILCS 5/2.11] \$75-00 for each the-first wild turkey hunting permit---and--\$25-00-for-each-additional-permit. All hunters Residents, except those exempted by Section 3.1 of the Wildlife Code

DEPARTMENT OF NATURAL RESOURCES

NOTICE OF ADOPTED AMENDMENTS

[520 ILCS 5/3.1] are also required to obtain a hunting license before hunting wild turkey. Permits are issued for a specific county or area and are valid only in the county or area designated on the permit. Applications for wild turkey permits must be mailed to:

Department of Natural Resources - Turkey
524 S. Second Street, Room 210
P.O. Box 19446

Springfield, Illinois 62794-9446

- b) Applicants must complete all portions of the permit application form. Incomplete applications will be rejected and fees returned. Each applicant must submit a personal check or money order for his/her individual application. Not more than 4 applications may be submitted for group hunters. Applicants submitting applications within three weeks of the season will not be guaranteed receipt of permit by start of season.
- c) Applications from Illinois residents will be accepted through December 1. Applications received in the permit office after December 1 will be included in the next computerized drawing. All requests must be on an official application form. Permits are not transferable and refunds will not be granted. Permits will be allocated in a computerized drawing to be held in Springfield. Applicants rejected in this drawing will receive preference in the next year's drawing for spring season permits subject to guidelines outlined in subsection (9).
- d) Permits not issued during the first computerized drawing will be available in a second computerized lottery drawing. Applications for this drawing will be accepted through the first working day after January 10. Applications received after this date will be included in the next drawing. All hunters not receiving a permit in the first computerized drawing and non-residents may apply at this time for the available permits. All resident permit applications will receive preference over non-resident applications.
- e) Any hunter who has not received a permit, and hunters that have received only one permit, may apply for a first or a second permit in a third computerized lottery drawing for the remaining permits. All resident permit applications will receive preference over non-resident applications. Applications for this third drawing will be accepted through the first working day after February 8. Applications received after this date will be included in the next drawing.
- f) Permits remaining after the three lotteries will be available in a random daily drawing that begins the first working day after March 8. All applications received on or before the first working day after March 8 will be processed in the first daily drawing. This drawing period is open to hunters applying for their first, second, or third permits.
- g) The following criteria must be met to obtain preference in the first computerized drawing:
- 1) The applicant must apply using the official agency application.

DEPARTMENT OF NATURAL RESOURCES

NOTICE OF ADOPTED AMENDMENTS

- 2) The applicant must be a resident of the State, be eligible to receive a spring turkey permit, and not had turkey hunting privileges revoked.
- 3) The applicant must apply for the same county and season choices which he/she listed on the previous year's application. Preference will not be granted for special hunt areas as listed in Section 710.25 or for permit areas listed in Section 710.50(c).
- h) A \$3 service fee will be charged for replacement permits issued by the Department.
- i) The periods for accepting applications for the first three lotteries may be extended if applications are not available to the public by November 1. A news release will announce the extension of the application periods.
- j) It shall be unlawful to:
- 1) Submit applications before the second computerized lottery drawing for more than one permit for the same person, and thereafter, submittal of applications for receiving more than three permits for the same person.
 - 2) Submit applications before the third computerized lottery drawing for more than two permits for the same person.
 - 3) Apply for or receive more than three permits for the spring turkey season.
 - 4) Provide false and/or deceptive information on a permit application form. In addition to criminal charges, individuals found guilty of violating this section shall have their application rejected, permit revoked, and fees forfeited.

(Source: Amended at 25 Ill. Reg. 14176, effective 01/22/2001)

Section 710.22 Turkey Permit Requirements - Landowner/Tenant Permits

- a) The "immediate family" is defined as the spouse, children, and parents permanently residing on the same property as the landowner or tenant.
- b) A tenant for the purpose of this Part is one who rents 40 acres or more land for commercial agricultural purposes under an agreement with a landowner. Commercial agriculture shall be defined as utilization of land for the raising of hay, grain crops or livestock for profit. A hunting rights lease, or other non-agricultural lease, is not valid for a landowner or tenant permit.
- c) Resident landowners who own 40 acres or more of land, and resident tenants renting or leasing 40 acres or more of commercial agricultural land, and members of their immediate family may apply for one free turkey permit for their property only in counties open for turkey hunting. ~~All-resident-landowners/tenants-who-do-not-reside-on-the-property--must-possess-a-valid-hunting-license-~~ Non-resident Illinois landowners of 40 or more acres of land and members of their immediate

DEPARTMENT OF NATURAL RESOURCES

NOTICE OF ADOPTED AMENDMENTS

- family are eligible to receive a permit for their property only for a fee of \$37.50. All landowners/tenants who do not reside on the property must possess a valid hunting license.
- d) Landowners or tenants are not required to participate in the public drawing for permits. Landowner/tenant permits are valid for the entire 323rd days encompassed by the 54 seasons, but allow the taking of only one wild turkey. This turkey hunting permit shall be valid on all lands the permit holder owns, leases, or rents in counties open for spring turkey hunting.
- e) Recipients of Landowner/Tenant permits to hunt their owned or leased property may apply for a second permit in the third lottery (the first working day after February 8), and a third permit in the Random Daily Drawing period that begins the first working day after March 8. Fees for these additional permits shall be \$15 for residents and the maximum fee as allowed by Section 2.11 of the Wildlife Code [520 ILCS 5/2.11] \$25 for nonresidents.
- f) Proof of ownership for all landowner or tenant applications must be provided by one of the following methods:
- 1) Submittal of a copy of property deed;
 - 2) Submittal of a copy of contract for deed;
 - 3) Submittal of copy of most recent real estate tax statement upon which landowner's name appears;
 - 4) Submittal of a copy of a Farm Service Agency 156EZ form; or
 - 5) Submittal of a copy of trust agreement which must indicate that the trust owns at least 40 acres and the applicant is a current income beneficiary of the trust.
- g) If you are applying for a tenant permit, you are required to submit, in addition to the landowner certification and proof of ownership, a copy of one of the following:
- 1) Submittal of a copy of a lease (not a hunting rights lease) or rental agreement, file stamped as recorded by the County Clerk, covering the current year; or
 - 2) Submittal of a copy of a Farm Service Agency 156EZ form.
- h) If the property is owned or rented by more than one person: Only one landowner (and his immediate family) or one tenant (and his immediate family) will be issued a permit for every 40 acres of owned or rented land. For example, if 3 persons own 90 acres, only 2 of the landowners and their immediate families may receive turkey permits.
- i) Bona fide equity shareholders ~~Shareholders~~ of corporations or bona fide equity members of limited liability companies owning 40 or more acres of land in a county may apply for a free permit to hunt the corporation or limited liability company lands only. Only one permit per 40 acres, for a maximum number of 15 permits per county, shall be issued based on ownership of lands by corporations or limited liability companies. Lands leased to corporations or limited liability companies shall not be considered as a basis for a free permit for the shareholders/members of the lessee. Lands held in trust by corporations or limited liability companies shall not be

DEPARTMENT OF NATURAL RESOURCES

NOTICE OF ADOPTED AMENDMENTS

considered as a basis for a free permit by the shareholders/members of the trustee. If application is made for a free permit based upon lands owned by the corporation or limited liability company, a duly authorized officer of the corporation or limited liability company must sign a notarized statement authorizing the applicant to hunt on the corporate or company lands for which a permit is being requested. This statement must identify the applicant as a bona fide equity shareholder or member as defined in this subsection, identify authorization to hunt and identify that no more than 15 authorizations will be requested per county for the corporation or limited liability company lands. This document must be attached to the application upon submittal to the Permit Office. This shareholder/member turkey permit shall be free to eligible residents and the cost to eligible nonresidents shall be \$37.50.

1) Bona fide equity shareholder means an individual who:

A) purchased, for market price, publicly sold stock shares in a corporation; purchased shares of a privately-held corporation for a value equal to the percentage of the appraised value of the corporate assets represented by the ownership in the corporation; or is a member of a closely-held family-owned corporation and has purchased or been gifted with shares of stock in the corporation; accurately reflecting his or her percentage of ownership; and

B) intends to retain the ownership of the shares of stock for at least 5 years.

2) Bona fide equity member means an individual who:

A) became a member upon the formation of the limited liability company; or has purchased a distributional interest in a limited liability company for a value equal to the percentage of the appraised value of the limited liability company assets represented by the distributional interest in the limited liability company and subsequently becomes a member of the company pursuant to Article 30 of the Limited Liability Company Act [805 ILCS 180]; and

B) intends to retain the membership for at least 5 years.

(Source: Amended at 25 Ill. Reg. 14176, effective 01/22/2001)

Section 710.25 Turkey Permit Requirements - Special Hunts

a) Special hunt sites are defined as those sites which are owned or controlled by agencies/entities other than the Department, or sites at which the Department only controls a portion of the property designated for turkey hunting, which issue turkey hunting permits through the statewide lottery process. The Permit Office issues turkey hunting permits through a computerized drawing for sites listed

DEPARTMENT OF NATURAL RESOURCES

NOTICE OF ADOPTED AMENDMENTS

below, in addition to the Department-owned or -managed sites listed in Section 710.50(c).

Crab Orchard National Wildlife Refuge (check-in and check-out required at Visitor Information Center, windshield card required, area closed 1/2 hour after sunset to 1 1/2 hours before sunrise, scouting allowed after noon including the afternoon of the day prior to the permitted hunting season)

Joliet Army Training Area (Will County) (check-in and check-out required at central check station; an additional turkey permit must be purchased from the Joliet Army Training Area)

Savanna Army Depot (Jo Daviess County)

b) Each applicant must enclose a separate fee (check or money order) payable to the Department of Natural Resources, or the application will be returned. Applicants should not send cash with their applications. The Department will not be responsible for cash sent though the mail.

(Source: Amended at 25 Ill. Reg. 14176, effective 01/22/2001)

Section 710.30 Turkey Hunting Regulations

It is unlawful:

- to use live or electronic turkey decoys, recorded calls, dogs, or bait (an area is considered as baited during the presence of and for 10 consecutive days following the removal of the bait);
- to take any wild turkey except a hen with a visible beard or a gobbler (male);
- to take, or attempt to take, more than three wild turkeys during the spring season, one must have a valid permit for each turkey that is taken;
- to use any weapon except a shotgun or bow and arrow. #4 shot is the largest and #7 1/2 is the smallest size shot that may be legally used. Archers may use a long, recurved, or compound bow with a minimum pull of 40 pounds at some point within a 28-inch draw. Minimum arrow length is 20 inches and broadheads must be used. Broadheads may have fixed or expandable blades, but they must be barbless and have a minimum 7/8 inch diameter when fully opened. Broadheads with fixed blades must be metal or flint-, chert-, or obsidian-knapped; broadheads with expandable blades must be metal. Any mechanical device capable of maintaining a drawn position or partially drawn position on a bow is illegal. All other bows and arrows, including electronic arrow tracking systems, are illegal;
- to hunt except from 1/2 hour before sunrise to 1:00 p.m. noon during

DEPARTMENT OF NATURAL RESOURCES

NOTICE OF ADOPTED AMENDMENTS

each day of the season;

- f) for any person having taken the legal limit of wild turkeys to further participate with a weapon in any hunting party for the purpose of taking additional wild turkeys;
- g) for any person to possess while in the field during wild turkey season any turkey permit issued to another person (permits are non-transferable);
- h) to transport or leave a wild turkey without first affixing the adhesive-backed turkey permit securely around the leg. Immediately ~~beg~~ tag-must-be-affixed-to-the-turkey-immediately upon kill and before the turkey is moved, transported or field dressed, the hunter must cut out the designated notch on the leg tag to invalidate it, and the tag must be affixed to the turkey. Successful hunters must register their harvest by 3:00 p.m. on the same calendar day as the turkey was taken by calling the toll-free telephone number provided with their turkey hunting permit. Hunters must provide all information requested by the telephone check-in system, and will be provided with a confirmation number to verify that they checked in their harvest. The confirmation number must be written by the hunter on the leg tag. The leg tag must remain attached to the leg of the turkey until it is at the legal residence of the person who legally took or possessed the turkey and the turkey has been checked in. The turkey must remain whole (or field dressed) until it has been checked in;
- i) for any person to shoot a wild turkey while it is in a tree before 7:00 a.m.;
- j) for any person to hunt wild turkeys without possessing a Wild Turkey Hunting Permit which shall include the hunter's signature recorded on the permit and carried on the person while hunting, except that a person without a weapon may accompany a turkey hunter as a caller or observer;
- k) for any person to use a turkey call that imitates sounds made by a turkey or to attempt to call a turkey by making these sounds while in the field in the Southern Zone from March 15 through the day before the 1st turkey season and in the Northern Zone from March 22 through the day before the 1st turkey season. This prohibition only applies in counties open to spring turkey hunting. This prohibition does not apply to participants in the Youth Turkey Season with a valid permit, or their accompanying adult, during that season as prescribed by 17 Ill. Adm. Code 685 - Youth Hunting Seasons.

(Source: Amended at 25 Ill. Reg. 14176, effective 06/22/2001)

Section 710.50 Regulations at Various Department Owned or Managed Sites

- a) Hunters who intend to hunt Department sites and who have a physical disability that requires special accommodations must contact the site superintendent at least 10 days before the date they wish to hunt.

DEPARTMENT OF NATURAL RESOURCES

NOTICE OF ADOPTED AMENDMENTS

The site superintendent shall make reasonable accommodations necessary to allow the disabled person to participate in the hunting experience at the site. Disabled hunters who require an aide or assistant with them during the hunt are responsible for providing the aide or assistant and notifying the site superintendent that an assistant will be present, and whether the assistant will also be hunting.

- b) Hunters must sign in/sign out at all sites in subsections (c) and (d) which are followed by a (1).
- c) Statewide regulations shall apply for the following sites:

Anderson Lake Conservation Area (1)

Argyle Lake State Park (1)

Cache River State Natural Area (1)

Campbell Pond Wildlife Management Area

Carlyle Lake Wildlife Management Area

Cypress Pond State Natural Area (1)

Dog Island Wildlife Management Area (1)

Ferne Clyffe State Park - Cedar Draper Bluff Hunting Area (1)

Fort de Chartres State Historic Site (muzzleloading shotgun or archery only) (1)

Franklin Creek State Park (1)

Giant City State Park (1)

Horseshoe Lake Conservation Area - Alexander County (controlled goose hunting area and public hunting area only) (1)

I-24 Wildlife Management Area (1)

Jubilee State Park (archery only) (1)

Kaskaskia River State Fish and Wildlife Area (except for that area lying north of Highway 154, east of the Kaskaskia River, and south of the Risdon School Road and Beck's Landing access road; a handicapped hunter with a P-2 handicapped certification, accompanied by a non-hunting attendant, may hunt at the site's designated handicapped hunting spot within this closed area. The hunting spot will be allocated on a first come-first served basis or via a drawing, if needed, held at the site office) (1)

DEPARTMENT OF NATURAL RESOURCES

NOTICE OF ADOPTED AMENDMENTS

Kinkaid Lake Fish and Wildlife Area (1)

Mark Twain National Wildlife Refuge, Gardner Division

Midewin National Tallgrass Prairie (an additional \$15 site hunting fee must be purchased from the U.S. Forest Service prior to hunting) (1)

Mississippi River Fish and Wildlife Area (Pools 25 and 26)

Mississippi River Pools 16, 17, 18, 21, 22, and 24

Cakford Conservation Area

Pere Marquette State Park (designated area only) (1)

Ray Norbut Fish and Wildlife Area (1)

Pend Lake Project Lands and Waters except Wayne Fitzgerald State Park

Saline County Fish and Wildlife Area (1)

Sanganais Conservation Area (site issued free permit required)

Sielbeck Forest State Natural Area (1)

Trail of Tears State Forest (1)

Turkey Bluffs State Fish and Wildlife Area (1)

Union County Conservation Area - Firing Line Unit and Public Hunting Area only (1)

Weinberg-King State Park (1)

Wildcat Hollow State Forest (1)

d) Statewide regulations shall apply except that all hunting is allowed by site-specific permit only. The Department of Natural Resources allocates permits for these areas through the lottery process set forth in Section 710.20. This permit is only valid for the specific site and season indicated on the permit.

Apple River Canyon State Park - Thompson and Salem Units (1)

Beaver Dam State Park

DEPARTMENT OF NATURAL RESOURCES

NOTICE OF ADOPTED AMENDMENTS

Big Bend State Fish and Wildlife Area (1)

Big River State Forest (1)

Castle Rock State Park (1)

Clinton Lake State Recreation Area (1)

Coffeen Lake State Fish and Wildlife Area

Crawford County Conservation Area

East Conant

Ferne Clyffe Hunting Area (1)

Fort Massac State Park (Youth Ages 10-15 only) (1)

Fox Ridge State Park (1)

Green River State Wildlife Area (1)

Hamilton County Conservation Area

Harry 'Babe' Woodyard State Natural Area (1)

Hidden Springs State Forest (first 2 seasons only) (1)

Horseshoe Lake State Park (Madison County)

Hurricane Creek Habitat Area (must have Fox Ridge State Park permit) (1)

Jim Edgar Panther Creek State Fish and Wildlife Area

Jim Edgar Panther Creek State Fish and Wildlife Area West Open Unit

Johnson-Sauk Trail State Park (1)

Kankakee River State Park (hunting hours are from one-half hour before sunrise until 12:00 noon) (1)

Kickapoo State Park (1)

Lake Shelbyville-Corps of Engineers Managed Lands (Shelby County)

Lake Shelbyville-Corps of Engineers Managed Lands (Moultrie

DEPARTMENT OF NATURAL RESOURCES

NOTICE OF ADOPTED AMENDMENTS

County) and Kaskaskia and Okaw Wildlife Management Areas

Lowden Miller State Forest (1)

Mackinaw River Fish and Wildlife Area (1)

Marseilles Fish and Wildlife Area (site is open to hunting Monday through Thursday only; hunting hours are from one-half hour before sunrise until 8:30 a.m.) (1)

Marshall Fish and Wildlife Area (1)

Mermet Lake State Fish and Wildlife Area (1)

Middlefork State Fish and Wildlife Management Area (1)

Mississippi Palisades State Park (closed during the fifth season closes after the second Sunday of the fourth season; fourth season permits will be limited to those remaining after the disabled hunt drawing) (1)

Momence Wetlands (1)

Newton Lake Fish and Wildlife Area

Pere Marquette State Park (Piasa, Quotoga, Potawatomi Camp Areas) (no hunting allowed on weekends)

Pyramid State Park (1)

Ramsey Lake State Park (1)

Randolph County Conservation Area (a handicapped hunter with a P-2 handicapped certification, accompanied by a non-hunting attendant, wanting to hunt at one of the site's two designated handicapped hunting spots is not required to have a site-specific permit. These hunting spots will be allocated on a first come-first served basis or via a drawing, if needed, held at the site office) (1)

Red Hills State Park/Chauncey Marsh

Sahara Woods (1)

Sam Dale Lake Conservation Area (1)

Sam Parr State Park

DEPARTMENT OF NATURAL RESOURCES

NOTICE OF ADOPTED AMENDMENTS

Sand Ridge State Forest

Sangamon County Conservation Area

Sanganois Conservation Area (Squirrel Timber Unit) (1)

Sangchris Lake State Park ††

Sato

Siloam Springs State Park (1)

Siloam Springs State Park (Buckhorn Unit) (1)

Site M

Stephen A. Forbes State Park (1)

Tapley Woods State Natural Area (1)

Ten Mile Creek Fish and Wildlife Area

Witkowsky State Wildlife Area (1)

Wolf Creek State Park (first 2 seasons only) (1)

(Source: Amended at 25 Ill. Reg. 14176, effective 01/22/2001)

DEPARTMENT OF REVENUE

NOTICE OF EMERGENCY AMENDMENTS

- 1) Heading of the Part: Charitable Games Act
- 2) Code Citation: 86 Ill. Adm. Code 435
- 3) Section Numbers: Emergency Action:
435.120 Amendment
- 4) Statutory Authority: 230 ILCS 30
- 5) Effective Date of Emergency Amendment: October 19, 2001
- 6) If this Emergency Amendment is to expire before the end of the 150-day period, please specify the date on which it is to expire: None
- 7) Date filed with the Index Department: October 19, 2001

8) A copy of the emergency amendment, including any material incorporated by reference, is on file in the agency's principal office and is available for public inspection.

9) Reason for Emergency: There is no statutory authority for the 14-day notice requirement contained in Section 435.120(b)(3). This rule constitutes a threat to the public interest because it impedes effective fundraising by qualified organizations. In addition, this regulation is a threat to the public welfare because it defeats the intent of the Charitable Games Act to provide fundraising mechanisms that allow charities to provide important social services to the people of Illinois.

10) A Complete Description of the Subjects and Issues Involved: This amendment repeals a requirement that a listing of additional charitable games workers be submitted to the Department 14 days in advance of the charitable games event, and that if such a listing is not submitted within this timeframe, the additional workers will not be allowed to participate in the operation of the charitable games event.

11) Are there any proposed amendments to this Part pending? No

12) Statement of Statewide Policy Objectives: This rulemaking neither imposes a State mandate, nor modifies an existing mandate.

13) Information and questions regarding this Emergency Amendment shall be directed to:

Keith Staats
General Counsel
Legal Services Division
Illinois Department of Revenue
101 West Jefferson

DEPARTMENT OF REVENUE

NOTICE OF EMERGENCY AMENDMENTS

Springfield, Illinois 62794
(217) 782-7296

The full text of the Emergency Amendment begins on the next page:

DEPARTMENT OF REVENUE

NOTICE OF EMERGENCY AMENDMENTS

TITLE 86: REVENUE
CHAPTER I: DEPARTMENT OF REVENUEPART 435
CHARITABLE GAMES ACT

Section	
435.100	Introduction
435.110	Definitions
435.120	Charitable Games Licenses
EMERGENCY	
435.130	Supplier's Licenses
435.140	Provider's Licenses
435.150	Ineligibility for License
435.160	Operation of Charitable Games Events
435.170	Restrictions and Limitations on the Conducting of Charitable Games
435.180	Imposition of Tax, Returns
435.190	Records; Audits
435.200	Denial, Suspension, or Revocation of Licenses
435.210	Criminal and Civil Penalties
435.220	State-Local Relations

AUTHORITY: Implementing and authorized by the Charitable Games Act [230 ILCS 30].

SOURCE: Emergency Rule adopted at 10 Ill. Reg. 15687, effective September 15, 1986, for a maximum of 150 days; adopted at 11 Ill. Reg. 3722, effective February 10, 1987; peremptory amendments at 11 Ill. Reg. 10702, effective May 26, 1987; amended at 15 Ill. Reg. 10966, effective July 10, 1991; amended at 16 Ill. Reg. 14702, effective September 14, 1992; amended at 18 Ill. Reg. 11629, effective July 7, 1994; amended at 21 Ill. Reg. 3978, effective March 14, 1997; amended by emergency rulemaking at 25 Ill. Reg. 14193, effective October 19, 2001, for a maximum of 150 days.

Section 435.120 Charitable Games Licenses
EMERGENCY

a) Eligibility. To be eligible for a charitable games license, an applying organization must have been organized in Illinois and must satisfy each of the following conditions of eligibility:

1) The organization must be a charitable, religious, fraternal, veterans, labor, or educational organization or institution organized and conducted on a not-for-profit basis with no personal profit inuring to anyone as a result of the operation and which is exempt from federal income taxation under Section 501(c)(3), 501(c)(4), 501(c)(5), 501(c)(8), 501(c)(10), or 501(c)(19) of the Internal Revenue Code, a veterans' organization as defined in the Bingo License and Tax Act [230 ILCS 25], an

DEPARTMENT OF REVENUE

NOTICE OF EMERGENCY AMENDMENTS

auxiliary of a veteran's organization (Section 2 of the Act), or a local fraternal mutual benefit organization chartered at least 40 years before it applies for a license.

- A) For an organization to be considered charitable for purposes of obtaining a charitable games license, its activities must benefit an indefinite number of persons; it must have no capital, capital stock, or shareholders; its funds must be derived mainly from private and public charity and be held in trust for the objects and purposes expressed in its charter; it must dispense charity to all who need and apply for it; and it must place no obstacles in the way of those seeking the benefits.
- B) For an organization to be considered educational for purposes of obtaining a charitable games license, it must be organized and operated to provide systematic instruction in useful branches of learning by methods common to schools and institutions of learning which compare favorably in their scope and intensity with the course of study presented in tax-supported schools.
- C) For an organization to be considered religious for purposes of obtaining a charitable games license, it must be a church, congregation, society, or organization founded for the purpose of religious worship.
- D) For an organization to be considered fraternal for purposes of obtaining a charitable games license, it must be a civic, service or charitable organization, not for pecuniary profit, which is a branch, lodge or chapter of a national or State organization and exists for the common business, brotherhood, or other interest of its members. This does not include a college or high school fraternity or sorority.
- E) For an organization to be considered labor for purposes of obtaining a charitable games license, it must be composed of labor unions or workers organized with the objective of betterment of the conditions of those engaged in such pursuit and the development of a higher degree of efficiency in their respective occupations.
- F) For an organization to be considered a veteran's organization for purposes of obtaining a charitable games license, it must be comprised of members of which substantially all are individuals who are veterans or spouses, widows or widowers of veterans, the primary purpose of which is to promote the welfare of its members and to provide assistance to the general public in such a way as to confer a public benefit.
- 2) The organization must have had a bona fide membership engaged in carrying out its objects for at least the entire five-year period immediately preceding application (Section 3 of the Act). However, this five-year requirement shall not apply with regard

DEPARTMENT OF REVENUE

NOTICE OF EMERGENCY AMENDMENTS

to the following two types of organizations:

A) An organization which has had a bona fide membership engaged in carrying out its objectives for at least the entire two-year period immediately preceding application, and which is affiliated with and chartered by a national organization which meets the five-year requirement (Section 3 of the Act).

B) A charitable organization created by a fraternal organization which meets the five-year requirement, and which has the same officers and directors as the fraternal organization. "Fraternal Organization" means a civic, service or charitable organization in Illinois, except a college or high school fraternity or sorority, not for pecuniary profit, which is a branch, lodge or chapter of a national or Illinois organization and exists for the common business, brotherhood, or other interest of its members (Section 3 of the Act).

3) Auxiliary organizations of a licensee shall not be eligible for a license to conduct charitable games, except for auxiliary organizations of veterans organizations (Section 4 of the Act). An "auxiliary organization" is one which exists to assist or support an affiliated organization.

b) Applications. Application for a charitable games license must be prepared by the prospective licensee or its duly authorized representative only on the forms prescribed by the Department, and must be accompanied by a license fee of \$200. A duly authorized representative is a person who has filed a power of attorney with the Department. Information requested of an applicant shall include, but not be limited to, name, mailing address, description of organization, information regarding the organization's officers and signatures. The Department will not consider applications which are not complete or which are not accompanied by the information described below. Each license must be applied for at least 30 days prior to the event at which the licensee wishes to conduct such games (Section 3 of the Act). Any willful misstatements contained in an application constitute perjury (Section 4 of the Act). An organization applying for a charitable games license must submit the following information in addition to the completed application form:

- 1) Documentary evidence sufficient to show that the organization meets the eligibility requirements of subsection (a) above. Such documentation must include, when applicable, a copy of the organization's by-laws, constitution, charter, minutes of past meetings, promotional materials, and Articles of Incorporation;
- 2) A copy of the letter or any other document issued to the organization by the Internal Revenue Service showing that the organization is currently exempt from federal income taxation under Section 501(c)(3), 501(c)(4), 501(c)(5), 501(c)(8), 501(c)(10) or 501(c)(19) of the Internal Revenue Code;

DEPARTMENT OF REVENUE

NOTICE OF EMERGENCY AMENDMENTS

- 3) Information, on the form for that purpose, supplied by the Department or on additional sheets attached to the form, concerning all of the members, volunteers, and employees of the organization who will participate in the management or operation of the charitable games events to be conducted under the license. This information shall include the names, addresses, social security numbers, and dates of birth of all persons who will participate in the management or operation of the games, along with a sworn statement made under penalties of perjury, signed by the presiding officer and secretary of the applicant, that the persons listed as participating in the management or operation of the games are bona fide members, volunteers, or employees of the applicant, that these persons have not participated in the management or operation of more than four charitable games events conducted by any licensee in the calendar year, and that these persons will receive no remuneration or compensation, directly or indirectly, from any source, for participating in the management or operation of the games. Any amendments to this listing must contain an identical sworn statement. If, from the information provided, the Department cannot determine with reasonable certainty that a member, volunteer, or employee does not have a criminal record which would make the organization ineligible for a license under Section 435.150, the Department will require such member, volunteer or employee to submit to fingerprinting in order to make a more certain determination as to the lack of a criminal history of the member, volunteer, or employee. Information concerning additional members, volunteers, and employees may be submitted at any time; however, such members, volunteers, and employees may not participate in the management or operation of any charitable games event unless the information required above is received by the Department in writing at least 14 days before the event on forms prescribed by the Department, which it owns, it must include with its application for a charitable games license an application for a charitable games equipment ownership permit. The application for such permit must be on the form prescribed by the Department, and must be accompanied by an application fee of \$50. On the permit application, the organization must list all charitable games equipment it owns and certify that all such equipment has the name of the organization permanently affixed thereto in a clearly visible location. Such permits shall be valid indefinitely. However, an organization possessing a permit must file an annual report with the Department that includes a listing of its inventory of charitable games equipment. This report must be filed by January 30 of each year. An organization holding a charitable games equipment ownership permit may lend such equipment without compensation to other licensed organizations
- 4) If the organization will be using charitable games equipment which it owns, it must include with its application for a charitable games license an application for a charitable games equipment ownership permit. The application for such permit must be on the form prescribed by the Department, and must be accompanied by an application fee of \$50. On the permit application, the organization must list all charitable games equipment it owns and certify that all such equipment has the name of the organization permanently affixed thereto in a clearly visible location. Such permits shall be valid indefinitely. However, an organization possessing a permit must file an annual report with the Department that includes a listing of its inventory of charitable games equipment. This report must be filed by January 30 of each year. An organization holding a charitable games equipment ownership permit may lend such equipment without compensation to other licensed organizations

DEPARTMENT OF REVENUE

NOTICE OF EMERGENCY AMENDMENTS

without applying for a supplier's license (Section 6 of the Act);

5) A diagram of the area(s) where the charitable games are to be played, showing the approximate location of each game, the location at which chips will be sold and redeemed (the bank), and the location of all doorways entering into the area(s);

6) If the organization will not be conducting its charitable games event(s) on premises which it owns, or at which it has its principal office or conducts activities for which it is organized, the organization must submit with its application a copy of a written, signed lease with the person or organization holding the license to provide the premises on which the charitable games event(s) will be conducted. No charitable games license will be issued for any date(s) not expressly stated in such lease;

7) Any other information requested by the Department which is necessary to establish the eligibility of the organization for a charitable games license;

8) A report on a form provided by the Department accounting for the disposition of the gross charitable games proceeds for the organization's most recent license year;

9) The application shall be signed by the presiding officer and the secretary of the applicant organization, who shall attest under penalties of perjury that the information contained in the application is true, correct and complete (Section 4 of the Act).

c) Licenses. A licensee may hold only one charitable games license (Section 3 of the Act). A charitable games license will be issued for as many as four dates during a license year. These dates may be consecutive, or separate, or some combination thereof. The license must state at what location each game will be conducted.

1) Addition of new event dates or changes in established event dates and times. Although applicants are not required to list four dates on the application, charitable games licenses which are issued for fewer than four dates must be amended to add additional dates. The Department must receive written notice of an added date, or changed date or time, at least 30 days in advance of such date.

2) Changes in established locations. In cases of changed locations, an officer of the organization must notify the Department in writing at least 60 days in advance of the date on which the licensee wishes to conduct games at the alternate location (Section 3 of the Act).

d) Upon receipt of a charitable games license the licensee shall file a copy of the license with each police department or, if in an unincorporated area, each sheriff's office whose jurisdiction includes the premises on which the charitable games events are authorized under the license (Section 4 of the Act).

e) The Department will not issue a charitable games license for an event to be held in a municipality if the municipality or county has adopted

DEPARTMENT OF REVENUE

NOTICE OF EMERGENCY AMENDMENTS

an ordinance prohibiting such events and has filed a copy of the ordinance with the Department.

f) A licensee must notify the Department of a change in officers within 30 days after such change. Notification must include the name, address, social security number, date of birth, race and daytime telephone number of the officer. In addition, the presiding officer and secretary will be required to sign an amended application.

(Source: Amended by emergency rulemaking at 25 Ill. Reg. 14199, effective October 19, 2001, for a maximum of 150 days)

ILLINOIS SECRETARY OF STATE
NOTICE OF EMERGENCY AMENDMENT

- 1) Heading of the Part: Certificates of Title, Registration of Vehicles
- 2) Code Citation: 92 Ill. Admin. Code 1010
- 3) Section Numbers
1010.452 Proposed Action
Amend
- 4) Statutory Authority: Illinois Vehicle Code, Section 2-104(b) [625 ILCS 5/2-104(b)].
- 5) Effective Date of Emergency Amendment: October 22, 2001
- 6) If this emergency amendment is to expire before the end of the 150-day period, please specify the date on which it is to expire: This Emergency will not expire before the end of the 150-day period.
- 7) Date filed with the Index Department: October 22, 2001
- 8) A copy of the emergency amendments, including any material incorporated by reference is on file in the agency's principal office and is available for public inspection.
- 9) Reason for Emergency: A request has been made for Special Event plates to be issued in order to raise funds for the families of New York City police officers and firefighters who died in the September 11 attack on the World Trade Center. The number of plates requested far exceeds the maximum number of special event plates allowed under the current language of this rule. Because of the great need for funds to assist the victims of the terrorist attacks, the maximum limit set forth in the rule should be removed. The maximum limit was previously removed from the statute authorizing special plates.
- 10) A Complete Description of the Subjects and Issues Involved: This amendment deletes the limitation on the number of Special Event plates to reflect the deletion of the limitation in the statute. This amendment also deletes the requirement that the words "LAND OF LINCOLN" appear on the top of the plate and the year and "ILLINOIS" on the bottom in even numbered years and be reversed during odd numbered years. The amendment also updates statutory references.
- 11) Are there any other proposed amendments pending on this part: No
- 12) Statement of Statewide Policy Objective: This rulemaking will have no effect on units of local government.
- 13) Information and questions regarding this Emergency Amendment shall be directed to:

ILLINOIS SECRETARY OF STATE
NOTICE OF EMERGENCY AMENDMENT

Raymond Watson
Assistant General Counsel
Howlett Building, Room 298
Springfield, IL 62756
217/785-3094

The full text of the Emergency Amendment begins on the next page:

ILLINOIS SECRETARY OF STATE

NOTICE OF EMERGENCY AMENDMENT

TITLE 92: TRANSPORTATION
CHAPTER II: SECRETARY OF STATE

PART 1010

CERTIFICATES OF TITLE, REGISTRATION OF VEHICLES

SUBPART A: DEFINITIONS

Section
1010.10 Owner--Application of Term
1010.20 Secretary and Department

SUBPART B: TITLES

Section
1010.110 Salvage Certificate--Additional Information Required to Accompany Application for a Certificate of Title for a Rebuilt or a Restored Vehicle Upon Surrendering Salvage Certificate
1010.120 Salvage Certificate--Assignments and Reassignments
1010.130 Exclusiveness of Lien on Certificate of Title
1010.140 Documents Required to Title and Register Imported Vehicles Not Manufactured in Conformity with Federal Emission or Safety Standards
1010.150 Transferring Certificates of Title Upon the Owner's Death
1010.160 Repossession of Vehicles by Lienholders and Creditors
1010.170 Junking Notification
1010.180 Specially Constructed Vehicles - Defined
1010.185 Specially Constructed Vehicles - Required Documentation for Title and Registration
1010.190 Issuance of Title and Registration Without Standard Ownership Document - Bond

SUBPART C: REGISTRATION

Section
1010.210 Application for Registration
1010.220 Vehicles Subject to Registration-Exceptions
1010.230 Refusing Registration or Certificate of Title
1010.240 Registration Plates To Be Furnished By The Secretary of State
1010.250 Applications For Reassignment

SUBPART D: REVOCATION, SUSPENSION AND CANCELLATION OF REGISTRATION

Section
1010.300 Operation of Vehicle after Cancellation, Suspension, or Revocation of any Registration
1010.310 Improper Use of Evidences of Registration
1010.320 Suspension, Cancellation or Revocation of Illinois Registration Plates and Cards and Titles

ILLINOIS SECRETARY OF STATE

NOTICE OF EMERGENCY AMENDMENT

1010.330 Operation of Vehicle Without Proper Illinois Registration
1010.350 Suspension or Revocation
1010.360 Surrender of Plates, Decals or Cards

SUBPART E: SPECIAL PERMITS AND PLATES

Section
1010.410 Temporary Registration--Individual Transactions
1010.420 Temporary Permit Pending Registration In Illinois
1010.421 Issuance of Temporary Registration Permits by Persons or Entities Other Than the Secretary of State
1010.425 Non-Resident Drive-Away Permits
1010.426 Five Day Permits
1010.430 Registration Plates for Motor Vehicles Used for Transportation of Persons for Compensation and Tow Trucks
1010.440 Title and Registration of Vehicles with Permanently Mounted Equipment
1010.450 Special Plates
1010.451 Purple Heart License Plates
1010.452 Special Event License Plates
EMERGENCY
1010.453 Retired Armed Forces Licenses Plates
1010.454 Gold Star License Plates
1010.455 Collectible License Plates
1010.456 Sample License Plates For Motion Picture and Television Studios
1010.457 Korean War Veteran License Plates
1010.458 Collegiate License Plates
1010.460 Special Plates for Members of the United States Armed Forces Reserves
1010.470 Dealer Plate Records
1010.480 State of Illinois In-Transit Plates

SUBPART F: FEES

Section
1010.510 Determination of Registration Fees
1010.520 When Fees Returnable
1010.530 Circuit Breaker Registration Discount
1010.540 Maximum Fees for Distribution of Motor Vehicle Renewal Plates and/or Stickers

SUBPART G: MISCELLANEOUS

Section
1010.610 Unlawful Acts, Fines and Penalties
1010.620 Change of Engine

SUBPART H: SECOND DIVISION VEHICLES

ILLINOIS SECRETARY OF STATE

NOTICE OF EMERGENCY AMENDMENT

Section	Reciprocity
1010.705	Vehicle Proration
1010.710	Proration Fees
1010.715	Vehicle Apportionment
1010.720	Auto Leasing
1010.725	Intrastate Movements, Foreign Vehicles
1010.730	Interstate Movements
1010.735	Trip and Short-term Permits
1010.740	Signal 30 Permit for Foreign Registration Vehicles (Repealed)
1010.745	Signal 30-Year-round for Prorated Fleets of Leased Vehicles
1010.750	(Repealed)
1010.755	Mileage Tax Plates
1010.756	Suspension or Revocation of Illinois Mileage Weight Tax Plates
1010.760	Transfer for "For-Hire" Loads
1010.765	Suspension or Revocation of Exemptions as to Foreign Registered Vehicles
1010.770	Required Documents for Trucks and Buses to detect "intrastate"
1010.775	Certificate of Safety

APPENDIX A	Uniform Vehicle Registration Proration and Reciprocity Agreement
APPENDIX B	International Registration Plan

AUTHORITY: Implementing Chapter 3 and authorized by Section 2-104(b) of the Illinois Vehicle Title and Registration Law of the Illinois Vehicle Code [625 ILCS 5/Ch. 3 and 2-104(b)].

SOURCE: Filed and effective December 15, 1970; emergency amendment at 2 Ill. Reg. 25, p. 119, effective June 14, 1978, for a maximum of 150 days; amended at 3 Ill. Reg. 12, p. 76, effective March 23, 1979; amended at 3 Ill. Reg. 29, p. 123, effective July 20, 1979; amended at 4 Ill. Reg. 17, p. 247, effective April 11, 1980; emergency amendment at 4 Ill. Reg. 21, p. 99, effective May 14, 1980, for a maximum of 150 days; amended at 6 Ill. Reg. 2241, effective February 1, 1982; amended at 6 Ill. Reg. 11076, effective August 26, 1982; codified at 6 Ill. Reg. 12674; amended at 7 Ill. Reg. 1432, effective January 21, 1983; amended at 7 Ill. Reg. 1436, effective January 21, 1983; amended at 8 Ill. Reg. 5329, effective April 6, 1984; amended at 9 Ill. Reg. 3358, effective March 1, 1985; amended at 9 Ill. Reg. 9176, effective May 30, 1985; amended at 9 Ill. Reg. 12863, effective August 2, 1985; amended at 9 Ill. Reg. 14711, effective September 13, 1985; amended at 10 Ill. Reg. 1243, effective January 6, 1986; amended at 10 Ill. Reg. 4245, effective February 26, 1986; amended at 10 Ill. Reg. 14308, effective August 19, 1986; recodified at 11 Ill. Reg. 15920; amended at 12 Ill. Reg. 14711, effective September 15, 1988; amended at 12 Ill. Reg. 15193, effective September 15, 1988; amended at 13 Ill. Reg. 1598, effective February 1, 1989; amended at 13 Ill. Reg. 5173, effective April 1, 1989; amended at 13 Ill. Reg. 7965, effective May 15, 1989; amended at 13 Ill.

ILLINOIS SECRETARY OF STATE

NOTICE OF EMERGENCY AMENDMENT

Reg. 15102, effective September 15, 1989; amended at 14 Ill. Reg. 4560, effective March 1, 1990; amended at 14 Ill. Reg. 6848, effective April 18, 1990; amended at 14 Ill. Reg. 9492, effective June 1, 1990; amended at 14 Ill. Reg. 19066, effective November 15, 1990; amended at 15 Ill. Reg. 12782, effective August 15, 1991; amended at 16 Ill. Reg. 12587, effective August 1, 1992; amended at 19 Ill. Reg. 11947, effective August 1, 1995; amended at 19 Ill. Reg. 16289, effective November 27, 1995; amended at 20 Ill. Reg. 11349, effective August 1, 1996; amended at 21 Ill. Reg. 8408, effective June 23, 1997; amended at 21 Ill. Reg. 13372, effective September 17, 1997; amended at 22 Ill. Reg. 8521, effective April 28, 1998; amended at 22 Ill. Reg. 22059, effective January 1, 1999; amended at 25 Ill. Reg. 7731, effective June 6, 2001; emergency amendment at 25 Ill. Reg. 14361, effective October 22, 2001, for a maximum of 150 days.

SUBPART E: SPECIAL PERMITS AND PLATES

Section 1010.452 Special Event License Plates

EMERGENCY

a) For purposes of this Section, the following definitions shall apply:

"License Plate Contractor" - a business currently under contract with the Secretary of State that which manufacturers the license plates for the Secretary of State.

"Special Event Plates" - license plates issued for commemorative purposes that which can be displayed on motor vehicles in accordance with Section 3-808(f) of the Illinois Vehicle Title & Registration Law of the Illinois Vehicle Code [625 ILCS 5/3-808(f)] (~~§§§-Rev-Stat-1987-ch-95-1/2-par-3-808(f)~~).

b) Applications for Special Event plates may be sent in care of the Plate Control Division of the Department, to have plates issued for display on Illinois registered vehicles in order to promote or recognize an event in Illinois. In order to apply for the Special Event plates, the applicant shall do the following:

- 1) Submit a written request for approval of Special Event plates, addressed to the Secretary, on letterhead of the requesting organization or activity.
- 2) Submit the application at least one-hundred-fifty--(150+ days before the event.

c) The Secretary may establish limits upon the total number of Special Event plates that may be approved in single calendar year. Applications may be rejected on the basis of past non-compliance with Special Event plate rules. In determining whether to reject an application grounded on past non-compliance, the Department will evaluate the performance of the organization or activity in remedying such non-compliance.

ILLINOIS SECRETARY OF STATE

NOTICE OF EMERGENCY AMENDMENT

d) Upon approval of the Special Event plate request, the organization shall submit plate design artwork to the Plate Control Division, preferably in camera-ready form. The Department shall have the right to use any plate designs or pictures of finished plates without prior notice for any purpose related to the administration of the Special Event ~~special-event~~ license plate program, including but not limited to the promotion of the program by the Department. The design for the Special Event plates shall meet the following criteria:

1) To meet statutory requirements, the design of the plates shall contain the word "ILLINOIS", the plate year, the date of the event, and the phrase "LAND OF LINCOLN", pursuant to Section 3-412 of the Illinois Vehicle Code [625 ILCS 5/3-412] ~~plus--Rev-Stat--1987--ch--95-1/27-par--3-412. Baring-even-numbered-years--LAND--OF--LINCOLN--shall-appear-on-the-top-of-the-plate-and-the-year-and--"ILLINOIS"--on-the-bottom---The-order--is--reversed--in odd-numbered--years. If submitted as camera-ready art, none of these four required elements of the design, nor the colored outline around the edge of the plate, shall be included in the actual art.~~

2) The design shall, in the opinion of the Department, be in good taste and exhibit decency.

3) The design shall differ in such matters as: design, color, or position of logo from the design of a Special Event plate used by the same organization in the immediately preceding year.

e) ~~Pursuant--to--Section--3-808(f)--of--the--Illinois--Vehicle--Code--(Ill-Rev-Stat--1987--ch--95-1/27-par--3-808(f))--the-total-number-of-plates--issued--for--a special-event--shall-not-exceed-200-pairs. The amount of charges for the manufacture of Special Event plates is determined by the license plate contractor. The organization shall be responsible for the payment of manufacturing and, if necessary, shipping charges. Billing and payment for the plates is directly between the license plate contractor and the organization.~~

f) The sponsoring organization is responsible for registering with the Plate Control Division of the Department all vehicles issued Special Event plates, and for monitoring plate recipient compliance with rules regarding their display. The organization shall observe the following guidelines for registration of vehicles:

1) The Special Event plates shall only be displayed on passenger cars or trucks or vans with an RV or "B" registration as set out in 92 Ill. Adm. Code 1030.30. The plates shall not be displayed more than ~~sixty~~ 60 days prior to the event, including the days during which the event is in progress, nor shall the plates be displayed after the last day of the event.

2) The sponsoring organization shall furnish the Department a completed registration assignment listing of the Special Event plates issued ~~four~~ 4 business days prior to the date that plates are to be displayed. The listing shall include:

ILLINOIS SECRETARY OF STATE

NOTICE OF EMERGENCY AMENDMENT

A) the Special Event plate number issued,
B) the vehicle's Illinois license plate number,
C) the name of the vehicle's registered owner,
D) the registered owner's address,

E) the year, make and vehicle identification number.

3) While the Special Event plate is being displayed, the regularly assigned license plate and the Registration Identification Card shall remain in the vehicle and be made available for inspection upon demand of a law enforcement officer.

4) A Special Event plate shall not be transferred to another vehicle once it has been assigned and registered with the Plate Control Division of the Department.

5) The Department reserves the right to revoke authorization for Special Event plates if the organization has failed to comply with the regulations in this Part. The Secretary will inform any organization in writing of non-compliance with ~~the Rules~~ in this Part.

g) Any person denied a Special Event Plate may, upon written request within 20 days ~~after~~ of such denial, seek a hearing governed by 92 Ill. Adm. Code 1001.

(Source: Amended by emergency rulemaking at 25 Ill. Reg. 14201, effective October 22, 2001, for a maximum of 150 days)

OFFICE OF BANKS AND REAL ESTATE

NOTICE OF PUBLIC INFORMATION

NOTICE OF FIND IMPOSED UNDER

THE RESIDENTIAL MORTGAGE LICENSE ACT OF 1987

Pursuant to Section 4-5(h) of the Residential Mortgage License Act of 1987 ("the Act"), 205 ILCS 535/4-5(h) (2000), notice is hereby given that the Commissioner of the Office of Banks and Real Estate of the State of Illinois has issued a fine of \$1,000.00 dollars against The Mortgage Exchange, License No. 4221, of Oak Brook Terrace, Illinois a licensee under the Act, for violating the terms of the Act and the rules and regulations adopted thereunder, effective October 10, 2001.

OFFICE OF BANKS AND REAL ESTATE

NOTICE OF PUBLIC INFORMATION

NOTICE OF REVOCATION UNDER

THE RESIDENTIAL MORTGAGE LICENSE ACT OF 1987

Pursuant to Section 4-5(g) of the Residential Mortgage License Act of 1987 ("the Act"), 205 ILCS 535/4-5(g) (2000), notice is hereby given that the Commissioner of the Office of Banks and Real Estate of the State of Illinois has revoked the license of Diplomat Mortgage, License No. 4792, of Palos Heights, Illinois, a licensee under the Act, for violating the terms of the Act and the rules and regulations adopted thereunder, effective October 24, 2001.

DEPARTMENT OF REVENUE
NOTICE OF PUBLIC INFORMATION

1994, 1995, 1996, 1997, 1998, 1999 and 2000 are available for \$3.00.
A cumulative Income Tax Sunshine Index of 1981 through 1989 letter rulings may be purchased for \$4.00.

3. Name and address of person to contact concerning this information:

Margaret Forth
Legal Services Office
101 West Jefferson Street
Springfield, Illinois 62794
217/782-6996

DEPARTMENT OF REVENUE
NOTICE OF PUBLIC INFORMATION

1. Statute requiring agency to publish information concerning Private Letter Rulings in the *Illinois Register*:

Name of Act: Illinois Department of Revenue Sunshine Act
Citation: 20 ILCS 2515

2. Summary of information:

Index of Department of Revenue sales tax Private Letter Rulings and General Information Letters issued for the Third Quarter of 2000. Private letter rulings are issued by the Department in response to specific taxpayer inquiries concerning the application of a tax statute or rule to a particular fact situation. Private letter rulings are binding on the Department only as to the taxpayer who is the subject of the request for ruling. (See 86 Ill. Adm. Code 1200.110) General information letters are issued by the Department in response to written inquiries from taxpayers, taxpayer representatives, business, trade, industrial associations or similar groups. General information letters contain general discussions of tax principles or applications. General information letters are designed to provide general background information on topics of interest to taxpayers. General information letters do not constitute statements of agency policy that apply, interpret, or prescribe tax laws administered by the Department. *General information letters may not be relied upon by taxpayers in taking positions with reference to tax issues and create no rights for taxpayers under the Taxpayers' Bill of Rights Act.* (See 86 Ill. Adm. Code 1200.120)

The letters are listed numerically, are identified as either a General Information Letter or a Private Letter Ruling and are summarized with a brief synopsis under the following subjects:

Alternative Apportionment	Partnerships
Apportionment - Financial Organizations	Public Law 86-272/Nexus Returns - Requirements To File
Apportionment - Sales Factor	Sales Outside The Ordinary Course of Business (Bulk Sales)
Base Income	Subtraction Modifications - Other
Composite Returns	Rulings
Exempt Organizations	Taxability In Other States
Liens	

Copies of the ruling letters themselves are available for inspection and may be purchased for a minimum of \$1.00 per opinion plus 50¢ per page for each page over one. Copies of the ruling letters may be downloaded free of charge from the Department's World Wide Web site at www.revenue.state.il.us

The indexes of Income Tax letter rulings for 1990, 1991, 1992, 1993,

DEPARTMENT OF REVENUE

NOTICE OF PUBLIC INFORMATION

2001 THIRD QUARTER SUNSHINE INDEX

APPORTIONMENT - INSURANCE COMPANY

IT 01-0070-GIL 08/30/2001 In determining the numerator of a life insurance company's apportionment factor, "risk" in Illinois refers to insured persons in Illinois. (This is a GIL.)

APPORTIONMENT - SALES FACTOR

IT 01-0007-PLR 07/13/2001 Letter Ruling IT 89-0212, stating that taxpayer has no Illinois apportionment factors, is revoked. Taxpayer was entitled to rely on that letter ruling prior to revocation, and so is not subject to tax or penalties prior to revocation. (This is a PLR.)

IT 01-0009-PLR 09/15/2001 Under facts represented in the request, regulation Section 100.3380(c)(2) would require elimination of gain from sales factor and lack of income-producing activities in Illinois would prevent interest income from being included in the Illinois numerator of the sales factor. (This is a PLR.)

IT 01-0062-GIL 08/14/2001 Partnership with no assets or employees in Illinois, and whose only Illinois activities are carried out by independent contractors will have no Illinois sales factor numerator. (This is a GIL.)

BASE INCOME

IT 01-0052-GIL 07/06/2001 Subchapter S corporation shareholder whose adjusted gross income was increased by agreement with the IRS to include the audit increases in income of the corporation allocable to all shareholders must include such increase in his base income. (This is a GIL.)

IT 01-0053-GIL 07/09/2001 Base income of a corporation is its federal taxable income, with statutory modifications. No modifications to federal depreciation deductions are required, and so federal depreciation deductions are automatically allowed. (This is a GIL.)

IT 01-0056-GIL 07/20/2001 Base income of an individual is federal adjusted gross income, with statutory modifications. No modification requires the add-back of amounts excluded from gross income under cafeteria plans or 401(k) plans, and so such amounts

DEPARTMENT OF REVENUE

NOTICE OF PUBLIC INFORMATION

2001 THIRD QUARTER SUNSHINE INDEX

are automatically excluded from base income. (This is a GIL.)

IT 01-0064-GIL 08/20/2001 In general, Illinois treatment of deferred compensation follows federal income tax treatment, except that qualified retirement plan payments are not subject to Illinois income tax. (This is a GIL.)

IT 01-0069-GIL 08/29/2001 Illinois tax treatment of fringe benefits and contributions to employee benefit funds generally follows the federal income tax treatment of such benefits and contributions. (This is a GIL.)

COLLECTION

IT 01-0066-GIL 08/24/2001 The Illinois Department of Revenue cannot compromise tax debts other than through Board of Appeals review, and is not bound by a restrictive endorsement on a check. (This is a GIL.)

COMPOSITE RETURNS

IT 01-0068-GIL 08/28/2001 Composite returns cannot be filed on behalf of corporations or partnerships that are partners in a partnership. (This is a GIL.)

CREDITS - FOREIGN TAX

IT 01-0065-GIL 08/20/2001 Foreign tax credit is not allowed for use taxes or other taxes not imposed on or measured by income. (This is a GIL.)

NET INCOME (LOSS) AND NET LOSS DEDUCTION

IT 01-0072-GIL 09/19/2001 Response to questionnaire regarding general income tax issues. (This is a GIL.)

PARTNERSHIPS

IT 01-0054-GIL 07/11/2001 Guaranteed payments under IRC Section 707(c) are distributions of partnership income, and must be allocated

DEPARTMENT OF REVENUE

NOTICE OF PUBLIC INFORMATION

2001 THIRD QUARTER SUNSHINE INDEX

under IITA Section 305. (This is a GIL.)

PENALTIES - OTHER RULINGS

IT 01-0067-GIL 08/24/2001 Failure of current officers and shareholders of a corporation to pay payroll taxes of the corporation arising prior to their taking control may subject such persons to penalty. (This is a GIL.)

PENSIONS

IT 01-0057-GIL 07/24/2001 Government employee retirement and disability plan income is excluded from Illinois base income. (This is a GIL.)

IT 01-0073-GIL 09/25/2001 Federal law prohibits a state from taxing most forms of retirement income of nonresident individuals. (This is a GIL.)

PUBLIC LAW 86-272/NEXUS

IT 01-0063-GIL 08/14/2001 Nexus guidance is provided by 86 Ill. Admin. Code Section 100.9720. (This is a GIL.)

IT 01-0071-GIL 09/17/2001 Nexus is not generally an appropriate issue for determination by letter ruling. (This is a GIL.)

RESIDENCY/NONRESIDENCY

IT 01-0059-GIL 08/01/2001 Determination of residency is not a proper subject of a letter ruling. (This is a GIL.)

RETURNS - REQUIREMENT TO FILE

IT 01-0058-GIL 07/27/2001 A corporation qualified to do business in Illinois is required to file a return for any year for which a federal income tax return is required to be filed. (This is a GIL.)

SUBTRACTION MODIFICATIONS - PENSIONS

DEPARTMENT OF REVENUE

NOTICE OF PUBLIC INFORMATION

2001 THIRD QUARTER SUNSHINE INDEX

IT 01-0060-GIL 08/02/2001 Military retirement pay is not subject to Illinois income taxation. (This is a GIL.)

SUBTRACTION MODIFICATIONS - OTHER RULINGS

IT 01-0008-PLR 08/02/2001 Corporation designated a high impact business by the Department of Commerce and Community Affairs and which has some amount of payroll or property factor allocated to an enterprise zone qualifies to have its dividends subtracted in the computation of base income under IITA Section 203(a)(2)(J), (b)(2)(K), (c)(2)(O) or (d)(2)(M). (This is a PLR.)

IT 01-0074-GIL 09/28/2001 ERISA does not prohibit the taxation of a voluntary employee benefits association. Letter rulings IT 90-0073, IT 93-0017 and IT 93-0017 are revoked. (This is a GIL.)

WITHHOLDING

IT 01-0075-GIL 09/28/2001 Illinois law generally requires withholding only when withholding is required for federal income tax purposes. (This is a GIL.)

WITHHOLDING - OTHER RULINGS

IT 01-0055-GIL 07/13/2001 It is possible that both Illinois law and the law of another state will require withholding from the same compensation. (This is a GIL.)

IT 01-0061-GIL 08/07/2001 The Department of Revenue accepts electronic funds transfer payment of withholding taxes, but currently does not accept electronic filing of withholding returns. (This is a GIL.)

STATE BOARD OF EDUCATION

NOTICE OF CORRECTION TO NOTICE ONLY

- 1) Heading of the Part: Certification
- 2) Code Citation: 23 Ill. Adm. Code 25
- 3) The Notice of Proposed Amendments being corrected appeared at: 25 Ill. Reg. 11209, September 7, 2001
- 4) The information being corrected is as follows: Separate rulemaking authority [105 ILCS 5/2-3.6 and Art. 21] should have been stated for Section 25.805, in case the agency determines that it needs to take this Section into second notice independently of the remainder of the rulemaking.

JOINT COMMITTEE ON ADMINISTRATIVE RULES
ILLINOIS GENERAL ASSEMBLY

SECOND NOTICES RECEIVED

The following second notices were received by the Joint Committee on Administrative Rules during the period of October 15, 2001 through October 22, 2001 and have been scheduled for review by the Committee at its November 13, 2001 meeting in Springfield. Other items not contained in this published list may also be considered. Members of the public wishing to express their views with respect to a rulemaking should submit written comments to the Committee at the following address: Joint Committee on Administrative Rules, 700 Stratton Bldg., Springfield IL 62706.

<u>Second Notice Expires</u>	<u>Agency and Rule</u>	<u>Start Of First Notice</u>	<u>JCAF Meeting</u>
11/28/01	Office of Banks and Real Estate, Auction License Act (68 Ill Adm Code 1440)	8/3/01 25 Ill Reg 9755	11/13/01
11/29/01	Department of Revenue, Income Tax (86 Ill Adm Code 100)	8/31/01 25 Ill Reg 11035	11/13/01
11/29/01	Illinois Racing Board, Definitions (11 Ill Adm Code 210)	8/31/01 25 Ill Reg 11037	11/13/01
11/29/01	Illinois Racing Board, Security Areas (11 Ill Adm Code 436)	8/31/01 25 Ill Reg 11031	11/13/01
11/29/01	Illinois Racing Board, Medication (11 Ill Adm Code 603)	8/31/01 25 Ill Reg 11020	11/13/01
11/29/01	Illinois Racing Board, Entries, Subscriptions, and Declarations (11 Ill Adm Code 1413)	8/31/01 25 Ill Reg 11016	11/13/01
11/29/01	Department of Public Aid, Medical Payment (89 Ill Adm Code 140)	8/24/01 25 Ill Reg 10672	11/13/01
11/30/01	Department of Employment Security, Disqualifying Income and Reduced Benefits (56 Ill Adm Code 2920)	8/31/01 25 Ill Reg 10966	11/13/01

JOINT COMMITTEE ON ADMINISTRATIVE RULES
ILLINOIS GENERAL ASSEMBLY

SECOND NOTICES RECEIVED

11/30/01	Department of Public Health, Men's Health Code (77 Ill Adm Code 950)	7/20/01 25 Ill Reg 8974	11/13/01
12/1/01	Illinois Farm Development Authority, Illinois Farm Development Authority (8 Ill Adm Code 1400)	7/13/01 25 Ill Reg 8485	11/13/01
12/2/01	Department of Revenue, Public List of Delinquent Taxpayers (86 Ill Adm Code 710)	8/31/01 25 Ill Reg 11054	11/13/01
12/2/01	Department of Revenue, Electricity Excise Tax Law (86 Ill Adm Code 511)	8/24/01 25 Ill Reg 10698	11/13/01
12/2/01	Illinois Criminal Justice Information Authority, Procedures for Approving the Form and Manner of Reporting Arrest, Charge, and Disposition Information to the Department of State Police (Repealed) (20 Ill Adm Code 1550)	8/3/01 25 Ill Reg 9798	11/13/01
12/2/01	Illinois Criminal Justice Information Authority, Individual's Right to Access and Review Criminal History Record Information (Repealed) (20 Ill Adm Code 1530)	8/3/01 25 Ill Reg 9774	11/13/01
12/2/01	Illinois Criminal Justice Information Authority, Fees for the Dissemination of Conviction Information (Repealed) (20 Ill Adm Code 1540)	8/3/01 25 Ill Reg 9769	11/13/01
12/2/01	Department of Human Services, Recovery of Misspent Funds (89 Ill Adm Code 527)	7/13/01 25 Ill Reg 8522	11/13/01
12/5/01	Department of Revenue, Senior Citizens and Disabled Persons Property Tax Relief and Pharmaceutical Assistance Act (86 Ill Adm Code 530)	8/31/01 25 Ill Reg 11057	11/13/01

PROCLAMATIONS

2001-549

CHIEF DEPUTY ROGER OLIVER DAY

WHEREAS, on October 19, 2001, Chief Deputy Roger Oliver will retire from the Macomb Police Department after 30 years of service to the community; and

WHEREAS, Roger dedicated much of his professional life in the detective division and later promoted through several ranks obtaining a promotion to Operations Captain; and

WHEREAS, the rank of Captain was later eliminated with a rank change to Deputy Chief; and

WHEREAS, Roger has been quite active with the Fraternal Order of Police and an active participant and representative in police pension issues;

THEREFORE, I, George H. Ryan, Governor of the State of Illinois, proclaim October 19, 2001, as CHIEF DEPUTY ROGER OLIVER DAY in Illinois, in recognition of the 30 years he has devoted to the community of Macomb.

Issued by the Governor October 11, 2001.

Filed by the Secretary of State October 18, 2001.

2001-550

NORTHERN ILLINOIS LIBRARY SYSTEM DAY

WHEREAS, the Northern Illinois Library System (NILS) is one of the 12 regional library systems in the State; and

WHEREAS, NILS serves more than 675,000 people; and

WHEREAS, NILS has undergone a major revamping of its physical facilities and is planning a grand opening, dedication and ribbon cutting on October 23, 2001, at 4:00 p.m.;

THEREFORE, I, George H. Ryan, Governor of the State of Illinois, proclaim October 23, 2001, as NORTHERN ILLINOIS LIBRARY SYSTEM DAY in Illinois.

Issued by the Governor October 11, 2001.

Filed by the Secretary of State October 18, 2001.

2001-551

PROVIDENT HOSPITAL DAY

WHEREAS, the Provident Foundation was founded in 1994 to promote the history and legacy of the renowned Provident Hospital; and

WHEREAS, Provident Hospital was the first hospital to provide internships for African American doctors and services for African Americans and others during the segregation era; and

WHEREAS, on Saturday, October 20, the many friends and supporters of the Provident Foundation will celebrate the 110th anniversary and founding of the Provident Hospital by sponsoring the Helping Hands, Healing Hearts: A Salute to Chicago's Miracles in Medicines Gala; and

WHEREAS, the Provident Foundation will present Living Legacy Awards to six individuals who have exemplified excellence in the field of medicine while unselfishly giving their time and resources to serve their communities;

THEREFORE, I, George H. Ryan, Governor of the State of Illinois, proclaim October 20, 2001, as PROVIDENT HOSPITAL DAY in Illinois in celebration of its 110th anniversary.

PROCLAMATIONS

Issued by the Governor October 11, 2001.

Filed by the Secretary of State October 18, 2001.

2001-552

REPUBLIC OF TURKEY DAY

WHEREAS, the Republic of Turkey will be celebrating the 78th Anniversary of the Turkish Republic on October 29, 2001; and

WHEREAS, this event has a special significance for all Turks and the Turkish American community in Illinois; and

WHEREAS, there will be several events celebrating the significance of this day throughout Illinois, including a "Republic's Day Ball" in Chicago and events at the Turkish American Cultural Center; and

WHEREAS, Turkish Americans have contributed greatly to Illinois in all areas of life including education, business, science, medicine, arts and entertainment; and

WHEREAS, Turkish Americans have proudly shared their culture, heritage and talents with our State; and

WHEREAS, members of the Turkish American community that have contributed to science and technological advances include the late Dr. Tuncer Kuzay, Dr. Ercan Alp and Dr. Ali Erdemir of Argonne National Laboratory; and

WHEREAS, the Founder of the Turkish Republic, Kemal Ataturk, has contributed to world peace; and

WHEREAS, the Republic of Turkey is the only secular democratic Moslem country, providing a working model to show how democracy, secularism, and free market economies can flourish in a Moslem country;

THEREFORE, I, George H. Ryan, Governor of the State of Illinois, proclaim October 29, 2001, as REPUBLIC OF TURKEY DAY in Illinois.

Issued by the Governor October 11, 2001.

Filed by the Secretary of State October 18, 2001.

2001-553

SLOVENIAN DAY

WHEREAS, on October 20, 2001, Slovenians in Illinois will celebrate the 10th anniversary of the independence of the Republic of Slovenia and the 50th anniversary of Slovenian American Radio Club; and

WHEREAS, 2001 marks the 50th anniversary of the Slovenian Day Festival in Illinois; and

WHEREAS, Slovenian Day is a celebration of Slovenian artists, folklore, singing, dancing, and crafts; and

WHEREAS, thousands of Slovenian Americans have been living in Illinois for generations and have contributed much to the progress and development of the State; and

WHEREAS, a special Independence Day program will be shared by all Illinois citizens on October 20, 2001;

THEREFORE, I, George H. Ryan, Governor of the State of Illinois, proclaim October 20, 2001, as SLOVENIAN DAY in Illinois.

Issued by the Governor October 11, 2001.

Filed by the Secretary of State October 18, 2001.

PROCLAMATIONS

2001-554

UNITED HELLENIC AMERICAN CONGRESS DAY

WHEREAS, November 3, 2001, marks the 26th Annual Banquet of the United Hellenic American Congress; and

WHEREAS, the United Hellenic American Congress was founded in 1975 to serve as the umbrella and unifying organization for Hellenic Americans; and

WHEREAS, the organization functions on local, regional and national levels to promote Greek heritage and culture, enhance relations between Greece and the United States and improve communications and unity between Greek Americans and fellow Americans; and

WHEREAS, Andrew A. Athens, National Chairman of United Hellenic American Congress, announces that banquet's theme will be "Honoring the Olympics and the Olympic Truce"; and

WHEREAS, the United Hellenic American Congress will honor and recognize His Excellency Evangelos Venizelos, Greece Minister of Culture, and His Eminence Archbishop Demetrios, Primate of the Greek Orthodox Archdiocese of America, for their commitment and contributions to the Hellenic community;

THEREFORE, I, George H. Ryan, Governor of the State of Illinois, proclaim November 3, 2001, as UNITED HELLENIC AMERICAN CONGRESS DAY in Illinois and urge all citizens to be cognizant of the special events arranged for this time.

Issued by the Governor October 11, 2001.

Filed by the Secretary of State October 18, 2001.

2001-555

CAREER DEVELOPMENT MONTH - FEBRUARY 2002 AND GROUNDHOG/JOB SHADOW DAY - FEBRUARY 1, 2002

WHEREAS, the State of Illinois recognizes the importance of career development and provides rigorous and relevant career awareness, exploration and development opportunities for each and every individual; and

WHEREAS, career development helps individuals understand, select and prepare for those occupations that will provide careers in the increasingly challenging labor market in the future; and

WHEREAS, individuals may change careers or need to be retrained several times, making career development a life-long process that reaches far beyond the schools; and

WHEREAS, the State of Illinois continues to emphasize career development for all people to assist them in preparing for the future through programs of the State Board of Education, the welfare to work initiative and the Illinois Employment and Training Center network; and

WHEREAS, the State of Illinois recognizes and celebrates the importance of individuals experiencing the workplace firsthand through mentoring and job shadowing programs; and

WHEREAS, private industry also recognizes the importance of partnerships between schools and businesses to ensure the economic prosperity of Illinois today and the ability of our students to participate in the global workplaces of tomorrow; and

WHEREAS, stakeholders in local communities must collaborate and cooperate to ensure each and every individual in Illinois receives equal opportunity

PROCLAMATIONS

education and training that will meet their career goals;

THEREFORE, I, GEORGE H. RYAN, Governor of the State of Illinois, proclaim February 2002 as CAREER DEVELOPMENT MONTH and February 1, 2002 as GROUNDHOG/JOB SHADOW DAY in Illinois.

Issued by the Governor October 12, 2001.

Filed by the Secretary of State October 18, 2001.

2001-556

DR. MARY DOCHIOS-KAMBEROS DAY

WHEREAS, Dr. Mary Dochios-Kamberos was born in Colfax, Washington, the third of four daughters born to Christ and Helen Dochios; and

WHEREAS, Mary attended the University of Idaho, graduating Phi Beta Kappa with a Bachelor of Science degree in Bacteriology. She went on to Hahnemann Medical College in Philadelphia where she earned her MD; and

WHEREAS, as a board-certified pediatrician and Fellow of the American Academy of Pediatrics, Dr. Dochios-Kamberos ran a solo practice for more than 50 years until her retirement two years ago; and

WHEREAS, today she is an active member of the Hellenic College/Holy Cross Greek Orthodox School of Theology Board of Trustees and a generous benefactor of St. Nicholas Greek Orthodox Church in Oak Lawn, Illinois; and

WHEREAS, Mary is well known in the Chicagoland community as a supporter of numerous philanthropic organizations that provide scholarships for inner-city and handicapped children in addition to the scholarship funds that she supports for other American youth;

THEREFORE, I, George H. Ryan, Governor of the State of Illinois, proclaim November 3, 2001, as DR. MARY DOCHIOS-KAMBEROS DAY in Illinois.

Issued by the Governor October 12, 2001.

Filed by the Secretary of State October 18, 2001.

2001-557

JEWISH BIG SISTER DAY

WHEREAS, Jewish Big Sisters (JBS) is one of the oldest Big Sister organizations in the area and it has evolved to fit the needs of Chicago's girls over the years; and

WHEREAS, during its 85 years, Jewish Big Sisters has provided continuing friendship and support to more than 4,000 underprivileged Jewish girls in Metropolitan Chicago; and

WHEREAS, through JBS, Big Sisters interact with Little Sisters at group activities as well as through one-on-one relationships; and

WHEREAS, group activities include cultural, educational, recreational, and religious events; and

WHEREAS, when appropriate, JBS may provide referral resources to Little Sisters and their families as well as financial assistance for specific needs; and

WHEREAS, Jewish Big Sisters is volunteer-based and all services are financed through fundraising and donations; and

WHEREAS, the Jewish Big Sisters organization will be celebrating its 85th anniversary;

PROCLAMATIONS

THEREFORE, I, George H. Ryan, Governor of the State of Illinois, proclaim October 21, 2001, as JEWISH BIG SISTER DAY in Illinois.

Issued by the Governor October 12, 2001.

Filed by the Secretary of State October 18, 2001.

2001-558

LAMBS FARM 40TH ANNIVERSARY DAY

WHEREAS, Lambs Farm is celebrating 40 years as a premier non-profit organization dedicated to the empowerment of people with developmental disabilities; and

WHEREAS, Lambs Farm began in 1961 when it opened a small pet shop on North State Street in Chicago to provide employment opportunities for people with developmental disabilities; and

WHEREAS, today, Lambs Farm is a thriving 70-acre campus in Libertyville where 250 adults with developmental disabilities live and work to their fullest potential; and

WHEREAS, the organization provides vocational training and has its own on-site businesses open to the public which includes a petting zoo, a pet shop, a restaurant, a country store, a thrift shop, and a miniature golf course; and

WHEREAS, the on-site businesses and attractions employ many of the men and women of Lambs Farm; and

WHEREAS, the organization provides a variety of residential and vocational options to empower the people of Lambs Farm to live and work in neighboring communities; and

WHEREAS, Lambs Farm is dedicated to providing the most independent environment possible based on each person's interests, strengths and needs; and

WHEREAS, Lambs Farm is known worldwide for its innovative programs, has been visited by families and professionals from every state and more than 25 countries and is an outstanding model of services for persons with developmental disabilities;

THEREFORE, I, George H. Ryan, Governor of the State of Illinois, proclaim, October 20, 2001, as LAMBS FARM 40TH ANNIVERSARY DAY in Illinois to recognize the outstanding contribution the organization has made and continues to make to the citizens of Illinois.

Issued by the Governor October 12, 2001.

Filed by the Secretary of State October 18, 2001.

2001-559

RUTH PAGE AWARDS DAY

WHEREAS, the memory of the late Ruth Page continues to inspire dancers in the Chicago area; and

WHEREAS, Chicago Dance Arts Coalition created the Ruth Page Awards in 1986 to honor excellence in dance and significant contributions to the field; and

WHEREAS, Chicago Dance and Music Alliance, as the successor to Chicago Dance Arts Coalition, continues the tradition of presenting the Ruth Page Awards; and

WHEREAS, the dance community has presented its nominees for the best of dance in the 2000-2001 season; and

PROCLAMATIONS

WHEREAS, the 2001 Ruth Page Awards for excellence in dance will be presented at the Dance Center of Columbia College on Sunday, October 21, 2001;

THEREFORE, I, George H. Ryan, Governor of the State of Illinois, proclaim

October 21, 2001, as RUTH PAGE AWARDS DAY in Illinois.

Issued by the Governor October 12, 2001.

Filed by the Secretary of State October 18, 2001.

2001-560

BRACHIAL PLEXUS INJURY AWARENESS WEEK

WHEREAS, brachial plexus injuries affect the network of nerves that control the muscles of the shoulder, arm, elbow, wrist, hand, and fingers and can result in full to partial paralysis of one or both arms; and

WHEREAS, brachial plexus injuries can occur as a result of trauma from automobile, motorcycle or boating accidents, sports injuries, animal bites, and gunshot or puncture wounds; and

WHEREAS, persons affected by brachial plexus injuries experience pain in muscles, joints and ligaments, as well as weakness, atrophy, numbness of the affected limb, and respiratory difficulties; and

WHEREAS, those affected by brachial plexus injuries often experience delayed diagnosis and lack of access to information related to current and groundbreaking treatment options, including surgical procedures available that could enhance function of the affected limb; and

WHEREAS, early intervention by specialized physicians and experienced occupational and physical therapists is essential for optimum functional improvement related to a brachial plexus injury; and

WHEREAS, the Chicago Brachial Plexus Injury Support Group, Inc. is planning various activities to promote, inform and educate the general public, the medical community, and individuals with brachial plexus injuries and their families during Brachial Plexus Injury Awareness Week 2001; and

WHEREAS increased understanding and awareness of brachial plexus injuries will ensure hope of a better future for people affected, as well as possibly prevent this injury from occurring;

THEREFORE, I, George H. Ryan, Governor of the State of Illinois, proclaim

October 14-20, 2001, as BRACHIAL PLEXUS INJURY AWARENESS WEEK in Illinois.

Issued by the Governor October 15, 2001.

Filed by the Secretary of State October 18, 2001.

2001-561

CATS DAY

WHEREAS, the poems comprising Old Possum's Book of Practical Cats by T.S. Eliot were first published by Faber & Faber in 1939, set to music by Lord Lloyd-Webber, are performed in the production as songs; and

WHEREAS, the London, United Kingdom production of "CATS" originated May 11, 1981, presented by Cameron Mackintosh Limited and the Really Useful Theatre Company Limited; and

WHEREAS, the Really Useful Theatre Company Limited, Cameron Mackintosh Limited, and the London cast and company of "CATS" exemplify high standards through collaborative team work, respect for all, celebration of cultural

PROCLAMATIONS

diversity, demonstration of positive self-esteem, determination and consistent hard work essential for success; and

WHEREAS, the London cast and company of "CATS" perform various and many humanitarian acts including participating in benefits, contributing personal resources to the wider community and inspiring and educating youth; and

WHEREAS, Cameron Mackintosh Limited and the Really Useful Theatre Company Limited, under the leadership of John Scarborough, Education Liaison Officer, sponsor the "Classroom Around the Stage" program, provide educational resources aligned to the national curriculum, and instill in youth of all ages a love and appreciation for the performing arts; and

WHEREAS, the cast and company members of the London production of "CATS" as positive role models motivate, inspire and improve the personal, social and academic growth of youth as future productive citizens of the world;

THEREFORE, I, George H. Ryan, Governor of the State of Illinois, proclaim

October 21, 2001, as CATS DAY in Illinois.

Issued by the Governor October 15, 2001.

Filed by the Secretary of State October 18, 2001.

2001-562

COUNTRY MUSIC DAY

WHEREAS, the Illinois Country Music Association (ICMA) was founded to promote country, gospel, bluegrass, and western music, along with square and clog dancing in our State; and

WHEREAS, the ICMA believes in the entertainment of fans and the recognition of Illinois artists; and

WHEREAS, the ICMA is celebrating its 12th anniversary with a show and concert on October 21. During the show, the Illinois Country Music Entertainer of the Year, along with 35 other awards will be announced;

THEREFORE, I, George H. Ryan, Governor of the State of Illinois, proclaim

October 21, 2001, as COUNTRY MUSIC DAY in Illinois.

Issued by the Governor October 15, 2001.

Filed by the Secretary of State October 18, 2001.

2001-563

ILLINOIS SOCIETY FOR RESPIRATORY CARE WEEK

WHEREAS, the Illinois Society for Respiratory Care is a well-known, prestigious organization of respiratory care practitioners who practice throughout our State; and

WHEREAS, respiratory care practitioners are involved, in an extensive number of lifesaving and life-supporting activities, including care for patients diagnosed with asthma, emphysema, pneumonia, and various lung disorders, as well as for seriously ill patients who have suffered cardiac or respiratory arrest; and

WHEREAS, Respiratory Care Practitioners are a vital and important link in our nation's health care delivery system;

THEREFORE, I, George H. Ryan, Governor of the State of Illinois, proclaim

October 21-27, 2001, as ILLINOIS SOCIETY FOR RESPIRATORY CARE WEEK in Illinois,

in recognition of the many years of service this selfless group of medical

PROCLAMATIONS

professionals has provided to our citizens.

Issued by the Governor October 15, 2001.

Filed by the Secretary of State October 18, 2001.

2001-564
FOOD DAY

WHEREAS, Springfield Mayor Karen Hasara, legislators and community members will join the Central Illinois Foodbank Board of Directors at a ceremony recognizing World Food Day (October 16) and National Food Bank Week (October 14-20); and

WHEREAS, the purpose of the event is to honor food pantry, soup kitchen and shelter volunteers from around the State for their work to feed people in need; and

WHEREAS, the number of people requesting food assistance in central Illinois during the past five years has increased dramatically. Larger food pantries that previously served 200 or 300 people each month now serve as many as 900 or 1,000 people each month; and

WHEREAS, the mission of the Central Illinois Foodbank is to collect donated food and grocery items from growers, manufacturers, processors, wholesalers and retailers for distribution to charitable agencies serving those in need; and

WHEREAS, the Central Illinois Foodbank distributes 4 million pounds of food each year to 219 nonprofit food programs in 21 counties; and

WHEREAS, Illinois' First Lady Lura Lynn Ryan is the Chairman of the Illinois Cooperative Extension Service's "4H CAN Make a Difference" Program, which raises more than 80 tons of food for the Illinois Food Bank each year; and

WHEREAS, Mrs. Ryan also partners with the "Food Rescue" program for the Illinois Food Bank;

THEREFORE, I, George H. Ryan, Governor of the State of Illinois, proclaim October 16, 2001, as FOOD DAY in Illinois.

Issued by the Governor October 16, 2001.

Filed by the Secretary of State October 18, 2001.

Rules acted upon in Issue 44 are listed in the Issues Index by Title number, Part number and Issue Number. The letter "R" designates a rule that has been repealed. Inquiries about the Issue Index may be directed to the Administrative Code Division at 217-782-4414.

PROPOSED

8-260-44
14-546-44
20-1216-44
32-322-44
38-397-44
47-2-44
50-2004-44
62-1700-44
62-1773-44
62-1777-44
62-1778-44
62-1780-44
62-1784-44
62-1785-44
62-1800-44
62-1816-44
62-1817-44
62-1825-44
62-1843-44
62-1846-44
62-1847-44
68-1285-44
68-1305-44
77-245-44
77-2080-44
86-130-44
86-210-44
89-140-44
89-152-44
89-686-44

ADOPTED

17-590-44
17-710-44
17-2530-44
23-140-44

EMERGENCY

86-435-44
92-1010-44

